

1999
Sunset Review Report
on Special Education Programs

A Report to the California Legislature

California Department of Education
Special Education Division

January 1999

Executive Summary

Part 34 of the Education Code requires the CDE to report on the review of special education programs so that the State Legislature can assess whether the program meets the needs of pupils and should be reauthorized. The program has been maintained less than two years from the date of the latest reauthorization. There has been much federal and state activity in laws and administration in this short period of time. The 1997 Sunset Review Report contained considerable information on the background of California's special education and ten years of data. As much of this is still valid, the entire 1997 Report is included in Appendix D for ease of reference. The body of the 1999 Sunset Review Report does not repeat this history, background, data, and recommendations, but rather focuses on the very important legislation of the past two years that is now being implemented.

The extensive amendments to the Individuals with Disabilities Education Act (IDEA) were the basis for SB 1686 (Solis), Chapter 691, Statutes of 1998, which brought California into line with the IDEA changes. AB 602 (Davis and Poochigian), Chapter 854, Statutes of 1997, and AB 598 (Davis), Chapter 89, Statutes of 1998, made substantial changes to the funding and delivery of special education. The Commission on Teacher Credentialing and the California Department of Education made significant changes in their administration of special education in this brief time period. The 1999 Sunset Review Report goes into the detail of these changes.

A part of the review reports on the information supplied by schools, parents, and groups as they experience the special education program successes and concerns. A large percentage of responses were simple statements that the Education Code provisions were appropriate, that the services were effectively being provided, that schools were fully accountable, and that special education was successfully providing an excellent education for students with disabilities; with the exception of the need for in-service and insufficient funding. These comments provide independent support for the report's recommendations, and many of the comments are listed in Appendix A.

There were several critical unmet needs and recommendations for legislative and state agency action. These are closely linked; indicating the reciprocal relationship among them. It is simplistic to focus on the fiscal resources alone, yet years of deficated allocations and COLAs undoubtedly exacerbated the extent of other unmet needs.

The review recommendations focus on six issues:

- Part 30 of the Education Code should be reauthorized. Special Education should be deleted as a categorical program under the Sunset provisions of Part 34.
- An egregious shortage of qualified staff and disincentives for staff to enter the field of special education.

- The paperwork burden placed on the teaching staff because of increasing demands, out dated technology, and/or no other resources for data management.
- The need for accountability and the resulting reduction of teaching time necessitated by the need to attend meetings, meet the data collection, reporting, and safeguard mandates.
- The added federal emphasis on student behaviors and the lack of pupil personnel, support staff, and alternative programs.
- The many years of under funding and the inequitable distribution of what funds were available, so that some districts could provide while their neighbors struggled to meet minimal standards.

1999 SUNSET REPORT ON SPECIAL EDUCATION

Introduction

California Education Code Section 62006 requires reports to be developed for programs scheduled to “sunset.” The terms “sunset” or “sunset date” means the date that programs cease to be operative. In enacting the provisions found in Part 34 of the Education Code, the California State Legislature expressed an intent “to assure a thorough review . . . so that [programs] most effectively, efficiently, and economically meet the needs of pupils and improve schools.” The California State Legislature in enacting this law did not, however, intend “to remove resources from pupils with special needs or to cease efforts to improve schools.”

Assembly Bill 58 (Escutia) Chapter 829, Statutes of 1997, amended Education Code section 62000.8, extending the sunset date for the special education program for only two years, rather than five years, from June 30, 1998, to June 30, 2000. The impact of the amendments to IDEA by Public Law 105-17, most of which became effective June 4, 1997, are not fully evident from the comments made by the respondents for this report, nor has the federal government released its final regulations required by the amendments enacted by PL 105-17 (IDEA). Similarly, major state legislation during 1997-1998, such as the funding provisions of Assembly Bill 602 (Davis and Poochigian), Chapter 854, Statutes of 1997, Senate Bill 1686 (Solis), Chapter 691, Statutes of 1998, and Assembly Bill 598 (Davis), Chapter 89, Statutes of 1998, have not been in effect for a long enough time to be influential in the comments of the respondents. Recent credential changes developed by the Commission on Teacher Credentialing (CTC) were not accounted for in the comments of the respondents concerned about credentialing. Initiatives undertaken by the CDE such as the Special Education Quality Assurance Process were likewise seldom mentioned as the respondents may not yet have had experience with the new review practices. There were a few comments specifically to these recent events, but they were a very small percentage of the total. This report covers less than a two-year period and does not contain historical data previous to 1996. Therefore the reader may want to refer to the 1997 Sunset Review Report for data and perspective going back in time and that material is contained in Appendix D.

Sunset law requires the Legislative Analyst to review this report and submit their findings, comments and recommendations to the Legislature within ninety (90) days following the receipt of this report from the California Department of Education (CDE).

The framework and content of this report and the 1997 report in Appendix D meet the requirements found in Education Code Section 62006. These required elements include:

1. A description of the programs, including narrative descriptions of how they typically operate at the local level and are administered at the state level.

2. The history of the program or programs and previous legislative action.
3. Relevant statistical data, including enrollment and fiscal data.
4. Related federal programs, and any provisions of federal law that may be appropriate for the Legislature to consider in its review of the state programs.
5. Whether there is an unmet need for the intended purposes of the program, and if any, the estimated cost of serving that unmet need.
6. Findings regarding the program addressing many of the following issues: (a) appropriateness of identification formulas in determining which children have special needs; (b) appropriateness of allocation formulas and adequacy of funding; (c) effectiveness of programs; (d) appropriateness of local control; (e) appropriateness of state level involvement in monitor, review, and auditing to assure that funds are being used efficiently, economically, and legally; (f) appropriateness of costs of administration at all levels of operating these programs; (g) appropriateness of State Department of Education administration of categorical programs; (h) interrelationships between and among state and federal categorical programs, as appropriate; (i) characteristics of the target population being served; (j) need for the program; and (k) purpose and intent of the program. To the extent appropriate, as determined by the CDE, the report shall include comments on whether any identified problems are implementation issues, or issues that warrant revision of law or regulations.
7. Recommendations of ways to improve the program while maintaining its basic purpose.

In the preparation of this report, the CDE sought opinions about program effectiveness, unmet needs and recommendations from more than eighty (80) agencies and from individuals representing parents, students, teachers, professional organizations, state agencies, program administrators, and others. In addition, the Advisory Commission on Special Education agendized the report to publicize and obtain information. As an additional measure, the CDE sought and received comments through the CDE web page. There were 227 completed forms or letters returned to the CDE. The CDE analyzed each piece of information for inclusion in this report. The views of the CDE, the Director of Special Education and the Advisory Commission on Special Education are included in the Special Education Sunset Review Report.

History of Special Education Programs

The past history is described in the 1997 Report located in Appendix D.

The provision of educational services for children with disabilities in California dates back to 1858 when the Legislature established a state-operated special school in San Francisco for deaf and blind children. From the 1920s to the 1970s, education programs to serve students with special needs were initiated throughout California as each disability was identified, and

the state enacted laws incrementally to respond to the needs of students with disabilities. In 1966, Congress passed Title VI of the Elementary and Secondary Education Act (ESEA) that began a program to promote states educating children with disabilities. By 1970, state laws and/or regulations governed twenty-eight different special education programs.

In response to a concern that special education programs had evolved into a patchwork quilt of services, the State Board of Education (SBE), in 1971, directed that a State Master Plan for Special Education be developed to provide an equitable and quality educational program for all children with disabilities in California. The California Master Plan for Special Education was adopted by the SBE on January 10, 1974. The fundamental notions embraced by the California Master Plan for Special Education had a great influence on the developmental aspects of Public Law 94-142, the federal Education for All Handicapped Children Act of 1975. In 1980, the Governor signed Senate Bill 1870 (Rodda), Chapter 797, Statutes of 1980, into law to complete the statewide implementation of the Master Plan. Senate Bill 1870 repealed all prior categorical special education programs and restructured them consistent with the Master Plan. Because of all of the changes in special education law since 1980, the Master Plan for Special Education was no longer appropriate for the way special education services were being delivered in the late 1990s. The federal government after many hearings amended the Individuals with Disabilities Education Act (IDEA) in 1997 to include much of the prior regulations into a revised law. California focused on a study of the financing of special education and enacted Assembly Bill 602, (Davis), Chapter 854, Statutes of 1997, which changed the basis for funding special education, but also permitted local educational agencies more flexibility in the manner of delivering instruction and services, providing the mandates of IDEA continue to be met. The new law also added provisions for local accountability. Thus 1998 was a year of rethinking how a Special Education Local Plan Area (SELPA) would continue to operate and manage its resources. While AB 602 was a major change in legal provisions, the next year began with follow-up bills, Senate Bill 1686 and Assembly Bill 598, continuing the annual process of refinement, innovation, and attaining greater state fiscal support for special education.

Need and Purpose of Special Education Services

Need for Special Education

In 1997 the United States Congress amended the Individuals with Disabilities Education Act (IDEA), primarily bringing much of the prior regulations into the law itself. A number of issues were clarified, but others are unresolved until the federal regulations are revised. Some changes enhanced the special education/general education interface such as adding a general education teacher to the Individualized Education Program (IEP) team and requiring the same progress reporting practices as for all students; other changes focused on deficiencies in practices such as assessing and serving students with behavioral problems and giving parents a stronger role in placement determinations.

The California Legislature has continued to recognize and respond to the needs of children with disabilities. At the close of the 1997-1998 legislative session, more than one hundred twenty legislative measures have modified California's special education statutes since full implementation of the Master Plan in 1980. Examples of key issues addressed by the legislature in meeting the needs of children with disabilities include the: (1) a new funding model for special education programs; (2) accountability requirements for special education programs and students; (3) changes in the usefulness of the local plan, (4) flexibility in the local delivery system; (5) identification and eligibility determination of students with disabilities; (6) expansion of services to preschool populations, infants, toddlers and their families; (7) provision of services through interagency agreements; (8) qualifications for teachers and new credentials; (9) parent access to pupil records; (10) differential proficiency standards for students with disabilities; (11) provision of wages to individuals with exceptional needs in work experience and work study programs; and (12) provision of restraining devices on school buses to transport safely pupils who use wheelchairs.

Pupil count data have documented the need for special education services revealing the number of eligible students. In December 1997, the public school enrollment for kindergarten through grade twelve in California was 5,727,303 students. This figure represents an increase of 4.7% or 260,079 students from December 1995. During this brief time, however, percentage growth in the number of special education students was 6.9%. Consider that in December 1995, there were 570,834 students enrolled in special education. However, by December 1997, enrollment in special education increased to 610,037 students. This figure represents a ten-year increase of 41% or 178,283 students from the 1987-88 school year. From December 1988 to December 1997, the number of special education students as a percentage of the public school enrollment increased from 9.37% to 10.65%. More information about general and special education enrollment data can be found in the Enrollment Data, Appendix B, of this report and in the 1997 Sunset Review Report found on pages 46-60 in Appendix D.

The Advisory Commission on Special Education (ACSE) also documents the need for special education in their *1997-1998 Annual Report*. The report can be accessed through the Division web site at <http://www.cde.ca.gov>. This report cited issues for special education services in areas such as: (1) the alarming increase in caseload and class size; (2) recruiting and retaining qualified personnel; (3) need for primary grade early intervention services in the core curriculum; (4) need for a strong School to Career system; (5) the individualized education program (IEP) adequacy; (6) a full continuum of program and placement options for all students; (7) testing, graduation standards and diplomas; (9) school accountability for pupil progress; and (10) funding for special education services.

The need for special education programs is documented by solicitation of public comment and recommendations from parents, students, teachers, administrators, specialists, advocates, state agencies, community agencies, and professional organizations that serve individuals

with exceptional needs. This data is described in this report under the heading entitled “Unmet Needs and Recommendations” to improve special education service and in the “Comments” found in Appendix A.

Purpose of Special Education

Part 30 of Education Code (Section 56000 et seq.) provides the authority for special education in California. This reference describes Legislative intent with respect to the provision of special education services in California. Education Code Section 56031 defines special education as “specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, whose education needs cannot be met with modification of the regular instruction program, and related services, at no cost to the parent, that may be needed to assist these individuals to benefit from specially designed instruction.” Special education provides a full continuum of program options to meet the educational and services needs of individuals with exceptional needs in the least restrictive environment. Eligible students are provided for according to their instructional needs.

Population Characteristics

See the 1997 Sunset Review Report, pages 39-43, in Appendix D for a description of the population characteristics. There has been no significant change other than enrollment growth in the last two years and the growth of enrollments in the autism spectrum category.

Public Schools

Both state and federal law and regulations contain extensive definitions of the populations to be served through special education. Education Code Section 56026 states that “individuals with exceptional needs” are those pupils identified by an individualized education program (IEP) team as a child with a disability that requires instruction, services, or both that cannot be provided with modification in the general school program. The pupil must meet appropriate age (0-22) and eligibility criteria set forth in IDEA and regulations adopted by the State Board of Education (SBE). “Pupils whose educational needs are due primarily to unfamiliarity with the English language; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs.”

The 1997 amendments to IDEA changed “seriously emotionally disturbed” to “emotionally disturbed” but otherwise did not change the eligibility criteria. The amendments also made mention of behavior in several other provisions, requiring IEP teams to include for every student information indicating whether behavior was a contributing factor to the disability. The amendments did not clarify the distinction between emotional disturbance and social

maladjustment. These amendments were incorporated into the Education Code by AB 598 (Davis), Chapter 89, Statutes of 1998.

Pupils Served by Nonpublic Schools

At the inception and implementation of the Master Plan for Special Education in school year 1975-76, described on pages 12-14 of the 1997 Sunset Review Report, pupils served by nonpublic schools were those individuals with identified disabilities that included: (1) serious emotional disturbance; (2) specific learning disabilities; (3) multiple handicaps; or (4) developmental delays. The largest disability groups served by nonpublic school are students with severe emotional disturbance (SED) (nearly 65%). The number of students with SED served by nonpublic schools represent nearly 38% of all special education students with SED. Although December 1997 enrollment data shows that the number of students placed in nonpublic schools is less than 2% (as it has been since 1986) of the total special education enrollment, the growth of the nonpublic schools from 1988 to 1997 has been dramatic. For example, in December 1988, 5643 students received nonpublic school services. This number increased to 11,679 by December 1997 - an increase of 106% over this ten-year period.

To ensure that pupils placed in nonpublic schools are afforded the opportunity for transition and education in a less restrictive public school program when adequate progress has been made, the California Legislature passed a bill in 1991 to require the CDE to conduct a five-year statewide pilot project. This legislation encouraged school districts and county offices of education (COEs) to establish programs in public schools, at a cost no greater than that of the nonpublic school. The CDE completed the study of the pilot project and published the results in November 1997 under the title *Special Education Nonpublic School Mainstreaming Pilot Project*. Senate Bill 1261 (Sher), Chapter 30, Statutes of 1997, extended this pilot project until January 1, 1999. After that date the new funding provisions repealed nonpublic schools and agencies as a funding category, except for extraordinary cost incurred by an individual IEP. LEAs or SELPAs will now have to fund nonpublic school services from the same fiscal base as the programs they operate themselves.

State Agencies

Current practice requires pupils who are referred for mental health related service to meet criteria as having an emotional disturbance and, unlike other pupils referred for specialized instruction and services, these pupils undergo a two-layer assessment process. This consists of an assessment completed by the LEA and a meeting of the IEP team. At this meeting a referral for a mental health assessment is made and, upon the completion of the mental health assessment, an expanded IEP team meeting is held to determine eligibility for interagency services and to develop an IEP program. This two-layer assessment and IEP team meeting is frequently time consuming and frustrating for pupils, parents, and teachers. Mental health assessments, in the past, have not always been completed concurrently with the assessment

completed by the LEA. Pupils enrolled in special education who may need mental health related services but do not meet the eligibility criteria as having an emotional disturbance are often referred to the school counselor or school psychologist to receive services.

Assembly Bill 2726 (Woods), (Chapter 654, Statutes of 1996) was passed into law that outlines: (1) the responsibilities of education and mental health agencies and; (2) establishes procedures governing referrals of special education students to community mental health agencies. It is anticipated that many questions raised in the past about dual assessments and referral procedures will be clarified through regulations and an interagency agreement between the CDE and the Department of Mental Health, as required by Assembly Bill 2726.

As of this date, the proposed regulations to streamline the process of interagency coordination have been written and public hearings held. They are in the last phases for legal adoption.

Program Descriptions

Appendix D, pages 13-14, can be read for a description of the prior Master Plan program options.

Service Delivery System

The special education service delivery system is noncategorical in nature. This means that it is not based on the existence of a disability, but rather on the specialized instruction and intensity of service needed by each individual student. The service delivery system under an old local plan is characterized by the range of instructional settings described as a special day class (SDC), resource specialist program (RSP), designated instruction and services (DIS), and a nonpublic, non-sectarian school (NPS). As SELPAs develop new local plans, the description of the service delivery system will incorporate features designed especially for the conditions in each school district and regional area differing in some detail from the options found in earlier Education Code provisions. Regionalized services may be needed to meet the unique needs of the low incidence populations such as visually impaired, deaf or hard of hearing, deaf-blind, or orthopedically impaired; school psychologists, and program specialists are other examples of the delivery system.

School Based Program Coordination

The School-Based Program Coordination (SBPC) Act of 1981 provides school site flexibility in the use of certain categorical resources and the authority to coordinate the use of categorical funds and personnel. Usually restructuring and reform efforts in general are based on the legal flexibility provided by the SBPC Act. If state special education funds are included in a SBPC, the school site must comply with all special education laws and

regulations and ensure the provision of all services required by the individualized education program (IEP). When staff funded by special education dollars are included in the plan, the plan must specifically describe how their services will be utilized and how general education staff will participate in meeting the IEP goals of individuals with disabilities. Special education funds are required to be allocated to the excess costs of special education services and a clear audit and accounting system is required by the provision of the SBPC Act. In the past such accounting was simple because the unit and teacher were synonymous; now the new funding model may permit greater resource flexibility and thus added need for accountability at the school site.

State Level Administration

See the 1997 Sunset Review Report, pages 7-11, for a full description of the responsibilities for administration.

1. The **State Board of Education (SBE)** is charged with the responsibilities to adopt rules, regulations, and policy to efficiently administer special education in California public schools.
2. Federal and state law establishes the **Advisory Commission on Special Education**. The Commission makes recommendations and provides advice in new or continuing areas of research, program development and evaluation of special education in California. The majority of the public members must be citizens with a disability or parents of a pupil in either a public or private school who is currently receiving special education services. The Commission is required to produce an annual report to the SBE, the State Superintendent of Public Instruction, the California State Legislature, and the Governor. At a minimum, this report must address: (a) the operation of special education in California; (b) the distribution of federal and state funds; (c) unmet education needs; and (d) recommendations relating to providing better education services to individuals with exceptional needs.
3. The **Superintendent of Public Instruction** is the chief executive officer of the CDE. With respect to special education, the Superintendent is required to: (a) administer special education law; (b) approve the SELPA organization; (c) establish local plan guidelines; (d) review and recommend to the SBE approval of local plans; (e) promote innovation and improvement of special education; (f) monitor the implementation of local plans; (g) encourage maximum parental involvement in special education; (h) make recommendations in the areas of staff development, curriculum, testing and multicultural assessment, and the development of materials for special education programs; (i) maintain state special education policies and procedures according to federal requirements; (j) maintain state special schools and coordinate services; (k) prepare an annual evaluation; (l) apportion funds according to state and federal law; (m) assist school districts and county offices of education evaluate and improve local special education programs; (n) provide mediation conferences and the state hearing process; (o)

promote career and vocational education for individuals with exceptional needs; (p) assure the provision of, and supervise education and related services as required by the Individuals with Disabilities Education Act (IDEA); (q) develop guidelines for each low incidence disability area and provide technical assistance regarding the implementation of the guidelines; (r) develop and distribute directories of public and private agencies that serve pupils with low-incidence disabilities (a severe disabling condition with an incidence rate of less than one percent of the total statewide K-12 enrollment).

4. By delegation, the **Special Education Division** is charged with the responsibility of ensuring the compliance with state and federal special education law. These responsibilities directly fall to the Deputy Superintendent for Education Equity, Access, and Support Branch and the Assistant Superintendent, who serves as the Director of the Special Education Division. The Director of the Special Education Division maintains a unit organization within the Division to serve LEAs, teachers, parents, and individuals with disabilities. Besides the use of state staff to administer the special education program, the Director of the Special Education Division collaborates with parent, universities, professional and organizational groups throughout California. Liaison with these groups has provided an avenue to collect information, develop action plans, and formulate recommendations for new programs, services and legislation to address current and emerging needs. The State Improvement Plan is a product of this process. The Special Education Division consists of the following organizational units: (a) Administration; (b) Assessment, Evaluation, and Support; (c) Compliance and Monitoring; (d) Complaints Management and Mediation; (e) Early Education; (f) Instructional Support; (g) Procedural Safeguards and Referral Services; and (h) Specialized Populations.

Goals of the Special Education Division

The immediate three goals of the Division are: (1) Quality Assurance and Focused Monitoring Process, (2) Procedural Safeguards, and (3) Customer Satisfaction. The goal of the quality assurance process is to improve student performance for individuals with disabilities while ensuring compliance with federal and state laws and regulations. The goals of the Division below support the goals of the California Department of Education; standards, assessment, and accountability:

- Meet high standards for academic and nonacademic skills
- Be integrated with nondisabled peers throughout their educational experience.
- Be taught or served by fully qualified personnel
- Successfully participate in preparation for the workforce and independent living.

The intent of the Quality Assurance Process (QAP) is to monitor the practices in an educational agency that relate to effective learning for students and ensure the enforcement of the protections guaranteed under the law to students with disabilities and their parents. The process focuses on collaborative partnerships, databased decision-making, and improving student results, consistent with the intent of IDEA.

5. The **State Special Schools and Services Division** provides diverse and highly specialized services and resources to individuals with exceptional needs, their families and to other service providers. The services are provided by three state special schools and three diagnostic centers that are part of the public school system of California. They are the California School for the Deaf in Riverside, the California School for the Deaf in Fremont, the California School for the Blind in Fremont and three Diagnostic Centers located in Fremont, Fresno, and Los Angeles. The schools provide educational programs from preschool through high school and beyond, and prepare the students to succeed academically and socially, and assists them in attaining economic self-sufficiency. The Diagnostic Centers provide comprehensive assessments and instructional support for students referred by LEAs, and provides extensive staff development, training and technical assistance for LEAs. The CDE prescribes rules for the governance of the schools and centers and appoints, removes for cause and fixes the compensation of the officers, teachers and employees. The Superintendent of each school and the Director of each center is appointed by the State Superintendent of Public Instruction. The Director of the Special Schools and Services Division carries out the responsibilities of the State Superintendent of Public Instruction. Site administration is the responsibility of the Superintendent of each school, and the Director of each center.

The **Clearinghouse for Specialized Media and Technology (CSMT)** in the State Special Schools and Services Division supports access to core curricula by students with disabilities. This unit produces accessible versions of textbooks, workbooks, and literature books that have been adopted for all public schools by the State Board of Education. Products and services are provided pursuant to the Education Code, IDEA, ADA, and standards developed by California teachers. CSMT's products include Braille, large print, recorded books, and American Sign Language Video books. CSMT also administers the American Printing House for the Blind (APH) federal quota program and California's Reader Services for Blind Teachers (RSBT) fund. The APH federal quota program provides specialized media and equipment for California students who are legally blind and the RSBT fund is used by approximately sixty school districts, county offices of education, and State Special Schools to pay people to read for classroom teachers who are blind. CSMT personnel develop and maintain collaborative relationships with public and private agencies, associations, foundations, and others concerned about public education for students with disabilities. Leadership in special projects such as assistive technology, long distance learning strategies, educational computer networking strategies, regionalization strategies, and oversight of educational programs and services is provided. Finally, CSMT facilitates the sharing of surplus special aids, equipment and materials purchased with federal and state low incidence funds for students with vision impairments, hearing impairments, severe orthopedic impairments and those who are deaf and blind.

Related Federal Programs Including Provision of Federal Law

The Sunset Review Report, pages 15-19 provides a brief overview of selected federal program descriptions from 1966 to June 1997.

In November 1975, Congress enacted Public Law 94-142, the Education for All Handicapped Children Act. Public Law 94-142 is a comprehensive federal grant program containing legal mandates regarding the rights of individuals with exceptional needs to a free appropriate public education. This law includes structural and procedural safeguards designed to ensure that education services are provided to individuals with exceptional needs. In 1997 Public Law 105-17 after many hearings brought most of the former regulations into the law itself and made a large number of changes, such as more focus on general education, adding a general teacher to the IEP team, involving parents in placement decisions, emphasizing behavior as a component of the disability, discipline, participating in statewide and district testing, adding new planning for staff development (State Improvement Plans and Grant), changing Part H to Part C (Infants and Toddlers), and eventual changes to the funding formulas.

There was high Congressional interest in crafting PL 105-17. It would appear from the changes made, the law continues to reinforce the federal intent to guarantee the rights of all students with disabilities. In this light, the California Legislature should consider special education as a federal mandate and repeal the inclusion of the special education program as a categorical program that sunsets for the purpose of Part 34 of the Education Code.

State Legislative Action (1997-1998)

For a more extensive history of legislative action, refer to the Sunset Review Reports for 1980, 1986, 1992 and 1997, or reference the annual Composite of Laws published by the CDE. During the 1997-1998 legislative session, fewer bills got through the hearing process, but those that became law were very important for special education.

1997

Senate Bill 1015 (Schiff), Chapter 545, Statutes of 1997 amended Education Code Section 56728.9 to extend the sunset date from January 1, 1998, to January 1, 1999, on the special education entitlement for special education local plan areas (SELPA) that are severely impacted by pupils who reside in licensed children's institutions. Pasadena Unified School District is the only SELPA that qualifies for this special entitlement.

Senate Bill 1261 (Sher), Chapter 30, Statutes of 1997, an urgency measure, extends until January 1, 1999, the statewide pilot project designed to determine whether special education pupils who have been placed in nonpublic, nonsectarian schools or seriously emotionally

disturbed pupils who are imminently at risk of placement in a nonpublic school program or in another more restrictive setting, can be better and more cost effectively served in public schools.

Assembly Bill 602 (Davis), Chapter 854, Statutes of 1997, known as the Poochigian and Davis School Education Reform Act, overhauls the special education funding system in California. It repealed the 17-year method of computing special education apportionments and made numerous conforming changes to other provisions of law, including the repeal and amendment of supporting statutes relating to the funding of special education programs. It declared the intent of the Legislature to establish a new method for financing special education that is based on the pupil population in each special education local plan area (SELPA). It further declared the intent of the Legislature that the new funding method, among other things, would ensure greater equity in funding among SELPAs, avoid unnecessary complexity, require fiscal and program accountability, and avoid financial incentives to place pupils inappropriately in special education. It made legislative findings and declarations that an area wide approach to special education services delivery through administration by SELPAs best serves differing population densities and provides local flexibility. It further declared the intent of the Legislature to equalize funding among SELPAs.

AB 602 established a method for computing one-time equalization adjustments to special education apportionments to school districts and county offices of education that is based on computed amounts per each type of special education services unit. The equalization adjustments are to be made using the \$76.692 million in the Budget Act of 1997-98 set aside for that purpose.

AB 602 also established a new system for funding special education services as an allocation per pupil in regular average daily attendance (ADA), commencing with the 1998-99 fiscal year. The ADA allocations would initially be calculated by dividing the prior year's special education funding for each SELPA by the regular ADA in all of the districts and county offices of that SELPA. Over time, funds allocated through the budget process would be used to ? level up? per ADA allocations until all SELPAs receive the same per ADA allocation. The law makes a one-time funding adjustment to the population-based formula of \$1,000 for each SELPA pupil who has a "special disability" and is in excess of the statewide percent of such pupils in using the April 1997 pupil count. "Special disability" categories include hard-of-hearing, deaf, visually impaired, deaf-blind, severe orthopedic impairment, and traumatic brain injury (the narrow, medically defined categories accounting for 5 percent of the special education population). This adjustment would be rolled into the base of the SELPAs with below average per pupil funding. Those districts above the statewide average which qualify for the adjustment would receive it in 1998-999 and in future years, if recommended by the study required in Section 67 of the Act. AB 602 further provided for district apportionment of funding to SELPA administrators, commencing with the 1998-99 fiscal year, if the SELPA administrator is designated to receive the funds in a state-approved local allocation

plan. Otherwise, most funds continue to be apportioned to school districts and county offices and are to be distributed in accordance with a state-approved local allocation plan. Funding for regionalized services and program specialists will continue to be apportioned directly to SELPAs.

The Act provided for SELPA administrators to become fiscal administrators of all special education services in the SELPA in accordance with an annual budget (local allocation plan) which is to be approved by the State Superintendent of Public Instruction. It provided that each SELPA, for the 1998-99 fiscal year, would be entitled to, at a minimum, an amount equal to the amount received per unit of average daily attendance in the 1997-98 fiscal year from specified state, local, and federal revenues for the purpose of special education for preschool pupils (ages 3 to 5 years, inclusive), special education for pupils enrolled in kindergarten and grades 1 to 12, inclusive, and the amounts received for equalization as adjusted for inflation, equalization to the statewide target amount, changes in enrollment, and the incidence of special disabilities, if applicable. Commencing with the 1999-2000 fiscal year, and each fiscal year thereafter, the amount of funding computed for each SELPA would be subject to adjustments for changes in enrollment, equalization to the statewide target amount, inflation, and the incidence of special disabilities, as specified.

AB 602 made no change in computing funding for licensed children's institutions and low incidence disabilities. The State Department of Education would be required to administer any extraordinary costs associated with single placements in nonpublic, nonsectarian schools. The Office of the Legislative Analyst and the Department of Education are required to conduct a study of nonpublic school and nonpublic agency costs with a final report to be submitted to appropriate policy and fiscal committees of the Legislature on or before May 1, 1998. An appropriation of \$100,000 of federal funding was earmarked for the study.

The Act requires each SELPA to submit a revised local plan on or before the time it is required to submit a local plan. Until the State Superintendent of Public Instruction approves the revised local plan, the SELPA would be required to continue to operate under the reporting and accounting requirements prescribed by the State Department of Education for the special education finance provisions repealed by AB 602. The department is required to issue transition guidelines on the accounting requirements that SELPAs would be required to follow, including, but not necessarily limited to, guidelines to account for instructional personnel service units and caseloads. The new law would prohibit the State Board of Education from approving any proposal to divide a SELPA into two or more units unless either equalization among SELPAs has been achieved or the division has no net impact on state costs for special education, provided, however, that a proposal may be approved if it was initially submitted prior to January 1, 1997. AB 602 requires each SELPA to administer the revised local plan and the allocation of funds. The law would require SELPAs that do not have approved revised local plans to continue to distribute funds under the methods set forth in law, as specified.

The new law repeals Education Code Sections 56448 and 56449 requiring the termination of the state's participation in special education programs for individuals with exceptional needs between the ages of 3 and 5 years if federal funding is not sufficient to fund the full costs of the programs and services.

The Office of the Legislative Analyst is required to contract for a study to gather, analyze, and report on data that would indicate the extent to which the incidence of disabilities that are medically defined or severe and significantly above-average cost, or both, are evenly and unevenly distributed among the population of SELPAs. Working with the Department of Finance and the State Department of Education, the Office of the Legislative Analyst shall submit a report of the contractor's findings and recommendations no later than June 1, 1998, to the Governor and appropriate policy and fiscal committees of the Legislature. The report is required to include, if feasible and appropriate, a method to adjust the funding formula contained in Chapter 7.2 of Part 30 of the Education Code, added by AB 602, in order to recognize the distribution of disabilities that are medically defined or severe and significantly above-average in cost, or both, among the SELPAs. An appropriation of \$200,000 of federal funding was included for the study.

The Legislature specified that of the amount needed to fully fund the equalization formula in Article 2 (commencing with Section 56836.06) of Chapter 7.2 of Part 30 of the Education Code, as it read on January 1, 1998, \$15 million shall be available for an adjustment to that formula pursuant to the results from the Office of the Legislative Analyst's study required in Section 67 of the Act. The amount actually required to fully fund the adjustments enacted by an act of the Legislature subsequent to the results of the study shall be funded in whole in the 1998-99 fiscal year of \$80 million, or more, if federal funds becomes available, or proportionately less if less federal funds are available, during the years of equalization carried out pursuant to Article 2 of Chapter 7.2 of Part 30 of the Education Code.

Section 69 of AB 602 requires the State Department of Education to convene a working group to develop recommendations for improving the compliance of state and local educational agencies with state and federal special education laws and regulations and to submit a report of the recommendations to the appropriate policy and fiscal committees of the Legislature on or before September 1, 1998. Final recommendations are to include, but not be limited to, state compliance training and technical assistance, state review and monitoring of local compliance, the state complaint process and timetable, state corrective action and follow up, and local and state agency sanctions for noncompliance.

Another noncodified provision of AB 602 requires the State Department of Education, on or before January 1, 1998, to develop a definition of severe orthopedic impairment for use in the application and distribution of low incidence funding in the 1998-99 fiscal year.

In addition, the new law makes legislative findings and declarations that the federal Individuals with Disabilities Education Act contain specified provisions (state eligibility,

least restrictive environment, performance goals and indicators, participation in assessments, and withholding of payments) and the state and local educational agencies be required to abide by federal laws.

Assembly Bill 1578 (Migden), Chapter 299, Statutes of 1997, an urgency Education Trailer Bill to the Budget Act of 1997, amended various Education Code sections, including Section 56728.8 to require that for the 1997-98 fiscal year, no amount may be allocated for instructional personnel services units for services to children with exceptional needs who are younger than 3 years of age if those units are generated by an extended-year program.

Assembly Bill 58 (Escutia), Chapter 829, Statutes of 1997, amended Education Code Section 62000.8, extending the sunset data for the special education program for June 30, 1998 to June 30, 2000.

Assembly Bill 1565 (Committee on the Budget), Chapter 306, Statutes of 1997, provided a sum of \$10,712,950 to cover deficiencies in prior appropriations for reimbursement of costs incurred in the 1994-95 and 1995-96 fiscal years, for state-mandated local costs, pursuant to Chapter 1747 (AB 3632) of the Statutes of 1984 (Services to Handicapped Children).

Budget Act of 1997-98

Assembly Bill 107 (Chapter 282, Statutes of 1997), the Budget Act of 1997-98, gave schools and special education programs a 2.65 percent cost-of-living adjustment (COLA) -- \$78,931,000 for ages 3-21 and \$1,444,000 for the Early Education Program. The budget also provided \$61.8 million for special education program growth for ages 3-21 program growth; \$500,000 of that amount is available for scarcity growth, and \$978,000 for ages 0-2 program growth. In addition, \$76,692,000 of federal funds was set aside for equalizing funding rates pursuant to Assembly Bill 602, Chapter 854, Statutes of 1997, "to reform the special education funding system in such a manner that will reduce the inequities and complexities of the current system and eliminate the financial incentives related to special education placements." Budget Item 6110-161-0001 provided a General Fund appropriation for special education programs in the amount of \$1,870,172,000, including \$54,508,000 for the Early Education Program. Budget Item 6110-161-0890 provided \$329,040,000 for special education programs from the federal Individuals with Disabilities Education Act.

1998

The most significant programmatic special education bill approved by the California Legislature and the Governor in 1998 was Senate Bill 1686 (Solis), Chapter 691, Statutes of 1998. The primary purpose of the measure was to align California special education law provisions with Public Law 105-17, the federal Individuals with Disabilities Education Act (IDEA) amendments of 1997. Three major areas of federal law not addressed in SB 1686, (discipline for pupils with disabilities, interagency responsibilities, and the composition of

the individualized education program team), were not included in the amendments to the Education Code. Those issues are anticipated to be addressed during the 1999-2000 legislative year.

Major provisions contained in SB 1686:

- Amended Education Code Sections 33590, 33594, 33595, and 33596 pertaining to the Advisory Commission on Special Education, including the membership and duties of the Commission.
- Amended Education Code Section 56031 relative to the definition of “special education”. The state definition was aligned with the federal definition in 20 USC 1401(25) which cites “instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and instruction in physical education” to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment.
- Added Education Code Section 56041.5 to align state law with 20 USC 1415(m) regarding the transfer of certain educational rights to the individual with exceptional needs who reaches the age 18. Any notice of procedural safeguards required under Part 30 of the Education Code must be provided to both the individual and the parents. The rights do not transfer if the individual has been determined to be incompetent under state law.
- Added Education Code Section 56043 for the purpose of listing in one code section the primary time lines affecting special education programs that are contained throughout Part 30 of the Education Code and Title 5 of the California Code of Regulations; and references to Title 20 of the United States Code, Title 34 of the Code of Federal Regulations, and Section 7572.5 of the Government Code.
- Added Article 3.5 (commencing with Section 56145) to Chapter 2 of Part 30 of the Education Code pertaining to Charter Schools. Education Code Section 56145 specifies that individuals with exceptional needs attending charter schools shall be served in the same manner as individuals with exceptional needs are served in other public schools. Education Code Section 56146 contains legislative intent language that local plans for special education local plan areas that are adopted shall provide for federal funds under Part B of the IDEA to individuals with exceptional needs enrolled in charter schools.
- Added Article 5.6 (commencing with Section 56170) to Chapter 2 of Part 30 of the Education Code pertaining to children enrolled in private schools. Education Code Section 56170 defines “private school children with disabilities”. Education Code Section 56171 requires local educational agencies to locate, identify, and assess all private school children with disabilities, including religiously affiliated school age children, who have disabilities and are in need of special education and related services. Education Code Section 56172 requires local educational agencies to make provision for the participation of private school children with disabilities in special education programs under this part by providing them with special education and related services.

- Repealed and added Education Code Section 56205, pertaining to special education local plans, and specifies that each special education local plan area submitting a local plan to the Superintendent of Public Instruction shall demonstrate, in conformity with 20 USC 1412(a) and 20 USC 1413(a)(1), that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing a free appropriate public education; full educational opportunity; child find and referral; individualized education programs, including development, implementation, review, and revision; least restrictive environment; procedural safeguards; annual and triennial assessments; confidentiality; transition from programs for infants and toddlers to the preschool program; children in private schools; and numerous others.
- Amended Education Code Section 56301, relative to a continuous child-find system, to conform to 20 USC 1412(a)(3) which requires all individuals with disabilities residing in the state, including pupils with disabilities who are enrolled in elementary and secondary schools and private schools, including parochial schools, regardless of the severity of their disabilities, who are in need of special education, to be identified, located, and assessed. The language also conforms to 20 USC 1412(d) which lists the minimum occasions that a copy of the procedural safeguards shall be made available to parents. The only exception is at the time the parent files a complaint with the California Department of Education. In that instance, the notice of parental procedural safeguards would be sent out by the department as part of acknowledging receipt of the complaint.
- Added Education Code Section 56302.5 to define the term “assessment,” as used in Chapter 4 of Part 30 of the Education Code, as having the same meaning as the term “evaluation” used in 20 USC 1414.
- Amended Education Code Section 56329, pertaining to the assessment plan of the pupil given to parents, to conform with 20 USC 1414(b)(4)(A)(B). Under this provision, the parent of the pupil shall be provided with a written notice that includes information stating that upon completion of the administration of tests and other assessment materials, an individualized education program team meeting with the parent and his or her representative shall be scheduled to determine whether the pupil is an individual with exceptional needs, and discuss the assessment, the educational recommendations, and the reasons for these recommendations. The section also provides that a copy of the assessment report and the documentation of determination of eligibility shall be given to the parent.
- Added Education Code Section 56341.5, relating to parent involvement in individualized education program team meetings, to conform with 20 USC 1414(d)(1)(B) and implementing regulations. Under this section, local educational agencies are required to take steps to ensure that one or both of the parents of the individual with exceptional needs are present at each individualized education program (IEP) meeting or are afforded the opportunity to participate. The section provides that parents shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend. It further provides that the IEP meeting shall be scheduled at a mutually agreed upon time and place. The notice of the meeting must indicate the purpose, time, and location of the meeting and who shall be in attendance. The section also provides that

parents may also be informed in the notice of the right to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs. Beginning at age 14, or younger, if appropriate, the meeting notice shall also indicate that a purpose of the meeting will be the development of a statement of the transition services needs of the individual, and indicate that the individual with exceptional needs is also invited to attend. It also provides that the meeting notice shall also identify any other local agency that shall be invited to send a representative. If neither parent can attend the IEP meeting, the local educational agency shall use other methods to ensure parent participation, including individual or conference telephone calls. The section provides that a meeting may be conducted without a parent in attendance if the local educational agency is unable to convince the parent that he or she should attend, and the local educational agency shall maintain a record of its attempts to arrange a mutually agreed-upon time and place. In addition, the section provides that the local educational agency shall take whatever action is necessary to ensure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. It further provides that the parent shall be given a copy of the individualized education program.

- Added Education Code Section 56342.5 to conform with 20 USC 1414(f) to require that local educational agencies ensure that parents are members of any group that makes decisions on the educational placement of the individual with exceptional needs.
- Amended Education Code Section 56343, pertaining to when IEP team meetings are held, to conform with 20 USC 1414(d)(4), by clarifying that during the annual review of the pupil's progress, the IEP team shall, among other things, review whether the annual goals for the pupil are being achieved.
- Amended Education Code Section 56345, relative to the content of the pupil's individualized education program, to conform with 20 USC 1414(d). It provides the following: (1) That the written IEP, shall among other things, include, for a school age child, how the pupil's disability affects the pupil's involvement and progress in the general curriculum. For the preschool age child, as appropriate, the IEP shall include how the disability affects the child's participation in appropriate activities. (2) That the IEP shall include measurable annual goals, including benchmarks or short-term objectives related to meeting the pupil's needs that result from the pupil's disability. (3) That the IEP shall include the specific special educational instruction and related services and supplementary aids and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided for the pupil in order to advance appropriately toward attaining the annual goals; be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities; and be educated and participate with other pupils with disabilities and nondisabled pupils in activities. (4) That the IEP shall include an explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in regular classes and in extracurricular and other nonacademic activities. (5) That the IEP shall include the individual modifications in the administration of state or districtwide assessments of pupil achievement that are needed

in order for the pupil to participate in the assessment. If the IEP team determines that the pupil will not participate in a particular state or districtwide assessment of pupil achievement (or part of an assessment), a statement of why the assessment is not appropriate and how the pupil will be assessed shall be included. (6) That the IEP shall include the projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications included in the IEP. (7) That the IEP shall include appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the annual goals are being achieved. (8) That the IEP, beginning at least one year before the pupil reaches the age of 18, shall include a statement that the pupil has been informed of his or her rights under the law, if any, that will transfer to the pupil upon reaching the age of 18. (9) That the IEP shall include a statement of how the pupil's progress toward annual goals will be measured. (10) That the IEP shall include a statement of how the pupil's parents will be regularly informed, at least as often as parents are informed of their nondisabled pupil's progress in the pupil's progress toward the annual goals; and the extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year. The section also provides, when appropriate, that the IEP shall also include, but not be limited to: (1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation. (2) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services. (3) Extended school year services when needed, as determined by the IEP team. (4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class, or nonpublic, nonsectarian school into a regular class in a public school for any part of the school day, as specified. (5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with specified guidelines. Legislative intent language, relative to meeting the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, was also amended to cite 20 USC 1414(d)(3)(B)(iv).

- Deleted from Education Code Section 56345(a)(4) was language that required the IEP to include the "extent to which the pupil will be able to participate in regular educational programs." Public Law 105-17 places the emphasis on explaining the extent, if any, to which the pupil will not participate with nondisabled pupils in regular classes and in extracurricular and other nonacademic activities. Also deleted from Education Code Section 56345(a)(6) was the reference to "short-term instructional objectives". Public Law 105-17 places the emphasis on "annual goals". Under the "When appropriate" provision, paragraphs (1) and (2) of subdivision (a) of Education Code Section 56345, pertaining to prevocational career education for pupils in kindergarten and grades 1 to 6, inclusive; and vocational education, career education or work experience for pupils in grades 7 to 12, inclusive, were deleted to align the state law with federal requirements. [Efforts will be made in the coming months to provide a fresh policy look at career-related needs of younger children.]

- Added Education Code Section 56345.1 to conform with 20 USC 1401(30), 1414(d)(1)(A)(vii)(I)(II) and 1414(d)(5) by defining the term “transition services”; and requiring that beginning at age 14, and updated annually, the IEP shall include a statement of transition service needs of the pupil, and be included under applicable components of the pupil’s IEP that focuses on the pupil’s course of study. The section also requires that beginning at age 16 or younger and annually thereafter, the IEP shall include a statement of needed transition services, including whenever appropriate, a statement of interagency responsibilities or any needed linkages
- Amended Education Code Section 56364 to conform the usage of “special class” with 20 USC 1412(a)(5) and the definition of “least restrictive environment” as the definition applies to special classes, separate schooling, or other removal of children with disabilities from the regular educational environment. The reference to precluding “participation in the regular school program for a majority of a school day” was deleted. Education Code Section 56364.5 was renumbered as Section 56364.2 and amended to conform in language to Education Code Section 56364. Education Code Section 56364.2 applies to special education local plan areas that have had a revised local plan approved pursuant to Education Code Section 56836.03.
- Amended Education Code Section 56381, pertaining to the reassessment of a pupil, to conform with 20 USC 1414(a)(2), (b) and (c). The amendments do the following: (1) Provide that as part of any reassessment, the IEP team and other qualified professionals, as appropriate, shall: (A) Review existing assessment data on the pupil, current classroom-based assessments and observations, and teacher and related services providers observations; and (B) On the basis of the review and input from the pupil’s parents, identify what additional data, if any, is needed to determine whether the pupil continues to have a disability; the present levels of performance and educational needs of the pupil; whether the pupil continues to need special education and related services; and whether any additions or modifications to the special education and related services are needed to enable the pupil to meet the measurable annual goals set out in the IEP of the pupil and to participate, as appropriate in the general curriculum. (2) Provide that the local educational agency shall administer tests and other assessment materials as may be needed to produce the data identified by the IEP team. (3) Provide that, if the IEP team and other qualified professionals, as appropriate, determine that no additional data is needed to determine whether the pupil continues to be an individual with exceptional needs, the local educational agency shall notify the pupil’s parents of that determination and the reasons for it, and the right of parents to request an assessment to determine whether the pupil continues to be an individual with exceptional needs; however, the local educational agency shall not be required to conduct an assessment unless requested by the pupil’s parents. (4) Provide that the local educational agency shall assess an individual with exceptional needs as specified before determining that the pupil is no longer an individual with exceptional needs. (5) Provide that no reassessment shall be conducted unless the written consent of the parent is obtained prior to reassessment except pursuant to Education Code Section 56506(e).

- Amended Education Code Section 56505, regarding the state due process hearing, to align it with 20 USC 1415(f)(1)(2)(A)(B) and (j) regarding the disclosure of assessments and other documents prior to a due process hearing. During the pendency of the hearing proceedings for a pupil applying for initial admission to a public school, the pupil shall be placed in the public school program until all proceedings have been completed. Subdivision (j) was added to Education Code Section 56505 to provide that any request for a due process hearing arising under subdivision (a) of Education Code Section 56501 shall be filed within three years from the date the party initiating the request knew or had reason to know of the facts underlying the basis for the request.
- Amended Education Code Section 56505.1, pertaining to due process hearing officer rights, to conform with 20 USC 1415(f)(1)(2)(A)(B) by permitting the hearing officer to bar the introduction of any documents and/or the testimony of any witness at a due process hearing not disclosed to the hearing officer at least five business days prior to the hearing, and bar introduction of any documents and/or the testimony of any witnesses not disclosed to the parties at least five business days prior to the hearing.
- Amended Education Code Section 56506, pertaining to due process rights, to conform with 20 USC 1414(C)(3) by providing that informed parental consent need not be obtained in the case of a reassessment of the pupil if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the pupil's parent has failed to respond.
- Added Article 7 (commencing with Section 56837) to Chapter 7.2 of Part 30 of the Education Code to provide a means of allocating federal funding to conform with 20 USC 1411(e) and (g)(1)(2)(B)(ii) and 20 USC 1413(a)(2)(A)(B)(C). (1) Education Code Section 56837 specifies how funds appropriated by the federal government, other than preschool funds, shall be allocated for local entitlements through the Budget Act once the federal appropriation reaches \$4,924,672,200. (The base year amount shall be allocated in a per pupil amount based on the number of pupils that have an IEP on December 1 of the fiscal year preceding the fiscal year for which the determination is made. Of the remaining federal funds for local entitlements exceeding the amount calculated for the base year, 85 percent shall be allocated to local educational agencies on the basis of the relative number of pupils enrolled in public and private elementary and secondary schools within the jurisdiction of the local educational agencies; and 15 percent shall be allocated to local educational agencies in accordance with the relative number of children living in poverty in the jurisdiction, as determined by the Superintendent of Public Instruction.) (2) Education Code Section 56838 contains the annual Budget Act formula for federal preschool funds. (Local educational agencies shall receive a base entitlement calculated pursuant to their share of federal fiscal year 1997 state grant for this program. Of the remaining federal funds for local entitlement beyond the amount received for federal fiscal year 1997, 85 percent shall be allocated to local educational agencies on the basis of the relative number of pupils enrolled in public and private elementary and secondary schools within the jurisdiction of the respective local educational agency; 15 percent shall be allocated to local educational agencies in accordance with the relative number of children in the jurisdiction living in poverty, as determined by the

Superintendent of Public Instruction. (3) Education Code Section 56839 specifies that the Superintendent of Public Instruction shall use the most recent population data, including data on children living in poverty, that are available and are satisfactory to the U.S. Secretary of Education (4) Education Code Section 56840 specifies that the federal funding allocations for local entitlements shall also apply to state agencies that were eligible to receive federal Part B funds prior to the enactment of Public Law 105-17. (5) Education Code Section 56841 specifies that the federal funds available through Part B of the IDEA and appropriated through the annual Budget Act shall only be used for the excess costs of special education and to supplement state, local, and other federal funds and not supplant those funds. The section specifies how federal funds shall and shall not be used. The section also specifies that for any fiscal year in which the amounts appropriated by Congress for Part B of the IDEA exceeds \$4,100,000,000, a local educational agency may reduce expenditures from the local funds for the education of individuals with exceptional needs by an amount that shall not exceed 20 percent of the amount of federal funds available under Part B and allocated to local educational agencies which exceeds the amount of these funds received by the local educational agency in the preceding fiscal year. The local educational agency may reduce expenditures from local funds only if the Superintendent of Public Instruction determines that the district, special education local plan area, or county office is meeting the requirements of Part 30 and the requirements of the IDEA regarding the education of individuals with exceptional needs. (6) Education Code Section 56842 specifies that the Superintendent of Public Instruction shall annually identify and submit to the Director of Finance recommendations for capacity-building and improvement grants for local educational agencies through the annual Budget Act. The capacity-building and improvement grants, if approved by the Legislature and the Governor, would be available to local educational agencies to assist them in providing direct services and in making systemic change to improve results for individuals with exceptional needs as specified in 20 USC 1411(f)(4).

Senate Bill 933 (M. Thompson), Chapter 311, Statutes of 1998 an urgency measure pertaining to educational placement of pupils residing in licensed children's institutions and foster family homes, among other provisions, amended Education Code Section 56140, pertaining to responsibilities of county offices of education, to require that for each special education local plan area located within the jurisdiction of the county office of education that has submitted a revised local plan pursuant to Education Code Section 56836.03, the county office shall comply with Education Code Section 48850, as it relates to individuals with exceptional needs, by making available to agencies that place children in licensed children's institutions a copy of the annual service plan adopted pursuant to Education Code Section 56205. SB 933 also amended Education Code Sections 56200 and 56205 to require special education local plans to contain a description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method of ensuring that all requirements of each pupil's individualized education program are being met; and include a method for evaluating whether the pupil is making appropriate educational progress. The

measure also amended Education Code Section 56366, pertaining to nonpublic, nonsectarian schools and agencies, to require that the master contract include a description of the process being utilized by the school district, county office of education, or special education local plan area to oversee and evaluate placements in nonpublic, nonsectarian schools. The description shall include a method for evaluating whether the pupil is making appropriate educational progress.

Senate Bill 1193 (Peace), an urgency measure pertaining to staff development, repealed Education Code Section 56242 that provided for average daily attendance reimbursement for staff development days and added a new Article 7.5 (commencing with Section 44579) of Chapter 3 of Part 25 of the Education Code, entitled Instructional Time and Staff Development Reform Program.

Senate Bill 1468 (Rosenthal), Chapter 846, Statutes of 1998, an urgency school revenue limits, reporting, and average daily attendance measure, among other provisions, amended Education Code Sections 56836.08, 56836.10, 56836.11, 56836.12 and 56836.24, pertaining to special education funding and calculations for average daily attendance (ADA), including requiring the Superintendent of Public Instruction to exclude units of ADA for absences excused pursuant to a prescribed provision from the prescribed computations.

Senate Bill 1564 (Schiff), Chapter 330, Statutes of 1998, an urgency Education Trailer Bill to the Budget Act of 1998, amended Education Code Section 56428 to adjust the instructional personnel service unit rates used to compute state funding for children younger than three years of age requiring special education and related services. The computation adjustments are to represent the actual, historic inflation adjustment amount funded for each provider of early education services. The measure also amended Education Code Sections 56836.08, 56836.09, 56836.15 making further technical adjustments to the special education funding provisions; and repealed and added Education Code Section 56836.155. The new Education Code Section 56836.155 required on or before November 2, 1998, the California Department of Education, in conjunction with the Office of the Legislative Analyst, to calculate an “incidence multiplier” for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Assembly Bill 602 (Chapter 854, Statutes of 1997), and submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance. The Department of Finance was given the responsibility of approving the final incidence multiplier for each special education local plan area. The Superintendent of Public Instruction is required to perform a specified calculation to determine each special education local plan area’s adjusted entitlement for the incidence of disabilities up until the 2002-03 fiscal year. A new study shall be submitted to the Legislature of the incidence multiplier on or before March 1, 2003.

Assembly Bill 205 (Machado) , Chapter 1058, Statutes of 1998, established in the Business and Professions Code the position of Speech-Language Pathology Assistant, and amended

Education Code Section 56363 to permit a speech-language pathology assistant to provide language and speech development and remediation services.

Assembly Bill 598 (Davis), Chapter 89, Statutes of 1998, an urgency clean-up bill to Assembly Bill 602 (Chapter 854, Statutes of 1997), made numerous technical and clarifying amendments to the provisions of Education Code containing the special education funding formula. The Part 30 sections amended by AB 598 include: 56131, 56132, 56136, 56155.5, 56156.5, 56156.6, 56195.7, 56200, 56205, 56207, 56211, 56212, 56325, 56361, 56364.1, 56365, 56366, 56366.3, 56446, 56832, 56835.04, 56836.01, 56836.02, 56836.03, 56836.05, 56836.06, 56836.08, 56836.09, 56836.12, 56836.13, 56836.15, 56836.155, 56836.16, 56836.21, and 56864. In addition, the following Part 30 Education Code Sections were added: 56048, 56156.4, and 56195.10; and Education Code Sections 56160, 56161, 56169, 56441.10, and 56447 were repealed. A number of the sections amended by AB 598 were further amended by bills signed into law after June 30, 1998, and described in this foreword.

Budget Act of 1998-99 highlights

Assembly Bill 1656 (Chapter 324, Statutes of 1998), the Budget Act of 1998-99, provided special education programs with a 2.18 percent cost-of-living adjustment (COLA) -- \$55,295,000 for ages 3-21 and \$1,241,000 million for the Early Education Program for Individuals with Exceptional Needs. Budget Item 6110-161-0001, in part, provided a General Fund appropriation for special education programs in the amount of \$2,062,858,000, including \$56,910,000 for the Early Education Program. The budget specified \$39,519,000 for 1998-99 program growth for pupils ages 3-21 and \$957,600 for infant program growth units (ages birth-2). A total of \$50,815,000 was made available for SELPA-level equalization of funding rates, pursuant to provisions of the new funding model, from the \$67.7 million federal special education funding increase. Budget Item 6110-161-0890 provided a total of \$398,801,000 for special education programs from the federal Individuals with Disabilities Education Act. Project Workability I received a federal funding increase of \$6,050,000 over fiscal year 1997-98 for a total federal appropriation of \$8,475,000; the State General Fund contribution for Project Workability I totaled \$6,729,000.

Special Education Funding

Prior Provisions

The prior special education funding model was the result of Senate Bill 1870 (Rodda), Chapter 797, Statutes of 1980. This funding model was based upon settings/services rather than on the per student basis that was in effect prior to the master plan. California ended the 1980-81 fiscal year with a \$117.8 million deficit in special education, including costs for transportation. With a state-level freeze on funding growth in special education and

inadequate funding for the entitlement system, the move to the new special education funding model continued to record annual deficits through the middle 1980s.

In January 1985, Governor George Deukmejian proposed to the Legislature a three-year, \$180 million, plan to provide additional funding for special education and to adopt reforms desired by the administration. As a part of the Governor's commitment to improve the quality for special education, \$65 million was appropriated during fiscal year 1985-86 to cover the costs of program growth, programs for infants, instructional aides for special classes and centers serving students with severe disabilities, equipment and materials to serve children with low incidence disabilities, incentives for COEs to lengthen the school day and year for special classes and vocational education for individuals with exceptional needs. For the 1986-87 fiscal year, the Legislature and the Governor approved an additional \$55 million for growth of special education programs, increased instructional aide time in classes for students with non-severe disabilities, expansion of the infant program, addition funding for equipment and materials for use with children with low incidence disabilities, incentives for COEs to lengthen the school day and year for special classes and a model transition program for students with disabilities.

However, in spite of all these steps to increase funding, a review of legislative efforts during the 1980s and through a survey of special education funding clearly show that the problems associated with the special education funding model had not been ameliorated. Indeed, because the COLA was computed on a percentage basis, the spread between high and low unit rates and support service ratio dollar amounts was increasing.

In July 1988, the Special Education Fiscal Task Force was convened by the State Superintendent of Public Instruction, as required by Assembly Bill 3217, to conduct a study of the current special education funding model and prepare a report of its findings and recommendations for submission to the Legislature. The Special Education Fiscal Task Force Report was completed in July 1988. This report was transmitted to the Legislature, but there was no action taken.

The Budget Act of 1994 included supplemental language requesting that the CDE, Department of Finance (DOF), and Legislative Analyst's Office (LAO) review the current funding model for special education and make recommendations for improvement. Pursuant to the Legislative direction, a tri-agency team was formed. The team held input sessions on special education funding throughout the state involving parents, teachers, and administrators. Many parents and teachers expressed concerns about accountability and enforcement in special education and parental involvement in educational decisions. Local administrators expressed concerns regarding the inequality of special education funding and state mandates regarding program configurations. Many local administrators also stated that special education funding had not kept pace with special education costs. This phenomenon, referred to as "encroachment," was a significant concern. Both groups expressed concern about the services available for children with disabilities in public schools.

In November 1995, a final report, complying with the Legislative directive, was issued. That report recommended that special education funding conform more closely to general education funding and that the funding model not create an incentive for any particular type of educational setting or placement. Development of a funding model that would be “placement neutral” is also consistent with recommendations from the federal Department of Education. If disability categories and educational placements could not be used to increase revenue, LEAs would be encouraged to consider only the needs of students in making these decisions. Therefore, the report recommended that SELPAs be apportioned an amount for special education based on their total student population, and that the amount per student apportioned to each SELPA be relatively equal throughout the state. SELPAs would continue to receive separate allocations of funds for specialized purposes (e.g., infant programs, low-incidence equipment and services).

The tri-agency report also called for the development of new accountability procedures in special education to ensure that funds appropriated for special education were used solely to provide specialized instruction and related services to pupils with disabilities and that appropriate and effective services are provided to eligible pupils. The Legislature included language in the Budget Act of 1995 directing the CDE to submit a preliminary report recommending new accountability procedures in special education that would complement the tri-agency report on funding. In May 1996, the CDE submitted a report to the Legislature complying with this directive. The CDE confined the report’s recommendations to those that could be carried out with little or no additional funding and those that did not constitute reimbursable state-mandated costs. The report affirmed the CDE’s commitment to ensuring that special education is child-centered. Each LEA and/or SELPA must be prepared to offer services in a continuum of settings, consistent with federal law, so that each disabled student can receive the specialized instruction and related services necessary to benefit from their education. The report contained three principle themes: (1) strict financial accountability standards; (2) new partnerships with parents; and (3) an emphasis on educational achievement. These themes are woven into specific recommendations regarding special education budgets and financial reporting, revised local plans, program reviews and pupil assessments to document and measure student progress in receiving the core curriculum, and greater accountability to the community through parent involvement and stronger Community Advisory Committees (CAC).

A New Funding Law

After the Legislature returned in 1997, Assemblymembers Davis and Poochigian introduced AB 602, Chapter 852, Statutes of 1997. Because COLAs are part of fiscal life, the equity adjustments were to be funded from any new federal Part B funds California received in any fiscal year. The Legislature included a one-time appropriation to initiate equalization for lower funded LEAs. Districts were equalized toward a statewide average rate for severe

units, nonsevere units, and aides. County offices were equalized toward a statewide county average for the same categories.

As the bill progressed through the hearings several issues continued to be raised. The bill did not satisfy advocates on the adequacy of accountability. The funding for nonpublic schools was combined in the per Average Daily Attendance (ADA) calculation for each SELPA and some LEAs contended that nonpublic placements were beyond their control. The bill did fund LEAs for children residing in licensed children's institutions that operated nonpublic schools. A major issue was the bill's assumption that the incidence of students with severe or high cost disabilities was similar among SELPAs. A one-time "incidence adjustment" was included in the final version for SELPAs with below average Average Daily Attendance (ADA) rates.

To respond to the above concerns, the final version of the bill contained requirements for three supplemental studies and recommendations to the Legislature to be completed within a year. On October 10, 1997, the Governor signed AB 602 to become effective in the 1998-99 fiscal year. While this was occurring, Congress passed the IDEA amendments of 1997, which contained many of the accountability requirements for student progress discussed in CDE's 1996 report.

Assembly Bill 598 (Davis), Chapter 89, Statutes of 1998, began as a clean-up bill to AB 602, but as a final bill, went far beyond technical issues. The important modifications to AB 602 included:

- Federal funding for preschool special education programs, from both Section 611 and Section 619 of Part B, was excluded from the per Average Daily Attendance (ADA) calculation with the intent that these funds be apportioned as separate grants.
- New accountability requirements for annual service and budget plans were clarified, and these were distinguished from "allocation" plans related to apportionment.
- The incidence adjustment in AB 602 was repealed, and instead language enacting the recommendations of the incidence study was adopted.
- Provisions were added requiring that a new "revenue limit" be calculated for each district-transferring students with disabilities to the county office for services. This adjustment was based on differences in actual attendance between students attending district and county programs.

The three reports required by AB 602 were completed and provided to the Legislature:

- Compliance: The many years of California's noncompliance findings by OSEP was evidence that accountability was in need of improvement. The lack of compliance has been attributed by some to ineffective monitoring and a lack of clear authority for enforcement. The increasing frequency of litigation involving the CDE is a concern. In response, the CDE convened an accountability workgroup and reviewed their preliminary

report and recommendations. The SED has determined a means to manage accountability and in September 1998 published a preliminary manual for a *Special Education Quality Assurance Process* (the QAP).

- Incidence: The study found there was significant variation in the incidence of students with severe and/or high cost disabilities that could not be explained by chance. An adjustment factor for identified SELPAs was recommended. Some portion of the funding necessary was made available for fiscal year 1998-99.
- Nonpublic School: The report found that maintaining a cost-reimbursement funding provision for children residing in LCIs and served by nonpublic schools violated the provisions of IDEA stating that the state funding system should not provide incentives contrary to serving students in the least restrictive environment. Further study will be necessary to develop recommendations.

The Legislature has yet to take action on the Compliance and Nonpublic School reports.

Fiscal Accountability

The State of California is required to audit, monitor and review special education programs consistent with the provisions of 20 United States Code (USC) Section 1412 (6). This section states that “the State educational agency shall be responsible for assuring that the requirements of this subchapter are carried out and that all educational programs for children with disabilities within the State, including all such programs administered by another State or local agency, will be under the general supervision of the persons responsible for educational programs for children with disabilities in the State educational agency and shall meet education standards of the State educational agency. This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the costs of a free appropriate public education to be provided children with disabilities in the State.”

Controls are applied in a variety of ways to assure the appropriate use of funds allocated for special education. Under current law, school districts and county offices of education (COE) are required to contract for an annual fiscal audit by a certified public accountant or a public accountant, licensed by the State Board of Accountancy. Evidence of this audit is then forwarded to the county superintendent of schools, the California Department of Education (CDE) and the State Controller. Annually, each school district and COE submits the audit report to CDE’s School Business Services Division and Office of Financial Accountability and Information Services, respectively. These units ensure fiscal accountability of school districts and COEs by reviewing and analyzing fiscal data and identifying and resolving problems. The Department of Finance (DOF) and the Auditor General periodically will study field fiscal operations pertaining to special education in selected district and county offices. At the local level, the Special Education Local Plan Area (SELPA) Community Advisory Committee (CAC) is responsible for reviewing the local plan before its submission to the CDE. Local education agencies (LEAs) are required to use the *California School*

Accounting Manual, as approved by the State Board of Education, to record their financial affairs. The *California School Accounting Manual* defines uniform accounting procedures and the requirements of annual audit reports. Eventually school districts and county offices will be using the *Standard School Accounting Structure* (SACS) for budgeting and reporting special education expenditures

Program Effectiveness

Federal Monitoring

The California Department of Education (CDE) is responsible for assuring that all elements of IDEA, Part B, are properly carried out in all public and appropriate nonpublic educational settings in California serving individuals with disabilities. As part of this responsibility, the CDE was host to a monitoring team from the U. S. Department of Education (USDE), Office of Special Education Programs (OSEP) during the 1994-95 school year and a follow-up visit in June of 1998.

The CDE in February 1996 received a report of the findings of the 1994-95 monitoring team. Copies of this report were widely distributed to interested parties throughout California in March 1996. California was commended for providing excellent special education services overall, however OSEP required the CDE to come into compliance in the following manner:

- CDE must ensure that all complaints meeting the criteria under the Code of Federal Regulations (CFR) 300.662, including those filed with a local educational agency, are resolved consistent with the requirements of 300.661, including the requirement that each complaint be resolved within sixty calendar days, unless the time line is extended because exceptional circumstances exist with respect to a particular complaint.
- CDE is responsible for adopting complaint procedures for resolving any signed written complaint.
- CDE is responsible for adopting written procedures for informing parents and other interested individuals about the complaint procedures in CFR 300.660 .662.
- CDE must ensure that a free appropriate public education is made available to all eligible youth with disabilities in Department of Corrections facilities by exercising general supervisory responsibility over educational programs in correctional facilities.
- CDE must adopt and use effective methods to monitor public agencies responsible for carrying out special education programs including the identification and correction of deficiencies.
- CDE must ensure that: (a) students with disabilities are educated with nondisabled peers and removed from the regular education environment only when the nature and severity of the student's disability is such that they cannot achieve education in the regular education environment with the use of supplementary aids and services satisfactorily; (b) educational placement decisions are based on the student's IEP; (c) the various alternative

placements are available to the extent necessary to carry out the IEP for each child with a disability; and (d) children with disabilities participate with nondisabled children in nonacademic and extracurricular activities to the maximum extent appropriate.

- CDE must ensure that: (1) a statement of needed transition services that meet Part B requirements is included in the IEP of each student no later than age sixteen; and (2) if a purpose of an IEP meeting is the consideration of transition services notice including all required information is provided.
- CDE must ensure that each student with a disability is provided with related services according to his or her IEP.
- CDE must ensure that each notice provided to parents pursuant to 300.504 contains a: (1) full explanation of procedural safeguards available to parents under 300.500, 300.502-300.515, and 300.562-569; (2) description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected; (3) description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and (4) description of any other factors that are relevant to the agency's proposal or refusal.
- CDE must ensure that public agencies conduct an evaluation that meets the requirements of 300.532 for each child with a disability, every three years, or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

As a result of the follow-up visit in 1998 and the oral reports of the OSEP team of their findings, the CDE and SED are working with USDE and OSEP to bring the Corrective Action Plan up to date. Once the USDE has issued the written report it will be distributed throughout the state. In the meantime, from knowledge of the discussions, the CDE is developing corrective actions to improve its monitoring capability in collaboration with the County Offices, SELPAs, and LEAs.

Quality Assurance and Focused Monitoring Process

In the past, activities used to measure the effectiveness of special education services emphasized technical compliance through the CDE's Coordinated Compliance Review (CCR) process involving all categorical programs in one site visit team. There have been complaints, however, that the CCR process is not an accurate measure of program effectiveness. While recent changes to the CCR and the Program Quality Review (PQR) process have stressed evidence that multifunded students are learning the core curriculum, both the CDE and SED were exploring new ways to enhance accountability in all programs.

To address these concerns and specifically meet the federal requirements, the Special Education Division developed and published in September 1998 the preliminary manual of the *Special Education Quality Assurance Process*.

The Quality Assurance Process is based on the utilization of available data as Key Performance Indicators (KPI); measures of the results of quality education. Data in the

California Special Education Management Information System (CASEMIS), and the developing CDE data base can show indices of student performance, measures of student outcomes, meeting proficiencies, graduation rates, transition success, school attendance, the availability of the full range of program options, qualifications of staff, parent-school partnerships and parent satisfaction, and interagency collaboration, among several other indicators. By utilization of available KPIs and data triggers (levels of KPIs) that indicate a concern, monitoring can be focused on those situations suspected of being able to benefit from cooperative partnerships making data-based decisions that improve student results.

Through partnerships schools, districts, SELPAs, County Offices and the CDE can bring a collective energy to resolve a local concern, acquire the resources necessary to provide FAPE, and agree to a local plan that will assure positive results for all students. The goals of this process are for students to:

- Meet high standards for academic and nonacademic skills,
- Be integrated with non-disabled peers throughout their educational experience,
- Be taught or served by fully qualified staff, and
- Successfully participate in preparation for the workforce and living independently.

The QAP will use three different review approaches based on the KPIs. All districts/SELPA will annually do a self-evaluation of their KPIs and program effectiveness. When the LEA/SELPA demonstrates through high scores on KPIs that students have positive outcomes and the indicators show "continuous improvement," CDE will showcase the district's achievements. A "Verification" review will periodically sample some LEAs to verify that the database is accurate and that the indicators are correctly identifying a program of high achievement for students as well as a compliant program. A "Collaborative" review will take place when there is a mutual interest in program improvement, either by SELPA request or early warning signs from the KPIs. This review involves a plan whereby all parties agree on the depth of the review and the outcomes desired. A "Facilitative" review is required when there are clear problems in the KPI and when the LEA appears to encounter difficulty in timely resolution. Resources will be provided according to the nature of the problem or noncompliance encountered to facilitate a direct and timely resolution. The school or LEA will be visited frequently to assure the steps are working, and to avoid a more direct intervention such as the assignment of a SELPA or state monitor.

For the QAP to be effective, CDE-SED must set high goals and expectancies, disseminate these goals, build partnerships with all concerned, develop an ethic for local accountability for student progress, develop a focused state monitoring system, have sufficient staff to provide field services, improve the complaint management, and increase the resources, technical assistance, and training necessary for program accountability. Additional resources for this to occur must be allocated through the CDE by the Legislature if monitoring is to be effective, school districts are to have the resources to participate, staff are able to acquire

skills and training, and the means to change practices leading to student learning can be afforded.

In the words of several respondents; to assure accountability, the CDE must be funded to employ qualified consultants, there must be resources for technology and data management, and the paperwork for accountability must be transferred from the backs of the teachers. Legislation will be needed to amend the code in support of the QAP, provide the resources for accountability, and clearly indicate the authority to apply the consequences of continued noncompliance.

The SED, in an effort (with existing resources) has restructured the division to create a new unit, the Procedural Safeguards and Referral Services Unit (PSRS) to provide technical assistance for parents and others to empower them to make informed decisions. The unit staff will facilitate communications between families and school districts. The unit staff will also discuss the concerns with the SELPA or district to give them an opportunity for early resolution. PSRS will provide information about dispute resolution, complaint procedures and access to due process. The new unit will also serve as the intake, tracking, and expeditor for complaints, and information resource for all forms of procedural safeguards, and manage communications, timelines, and quality assurance for the division.

Procedural Safeguards and Referral Services (PSRS) is part of the systemic restructuring of complaints management within the Special Education Division. Parents have an identified point of reference for technical assistance for resolving disputes regarding special education through PSRS unit while the Complaints Management Unit handles the individual allegations and investigations. The Quality Assurance/Focused Monitoring process, managed through the Compliance and Monitoring Unit, addresses the systemic compliance throughout the school district.

The eventual effectiveness of this effort will be dependent upon the legislature's support for legal provisions and fiscal resources for CDE, local assistance partnerships, and alternative dispute resolution training.

Credential Programs

California faces a crisis in not having qualified staff to meet the requirements of the federal law for each student to receive FAPE. The Commission on Teacher Credentialing has been aware of this need and has developed a new special education credential structure that should enable more candidates to pursue special education credentials while in undergraduate programs, and districts to have flexibility in assignment of teachers under the new service delivery provisions. Many of the respondents may not have been aware of these recent CTC changes for the future.

There were other concerns where the CTC has less influence and will require legislative attention. Universities under budget constraints are not adequately providing for sufficient special education course work and credential programs to meet the existing need. Teachers working under waivers or emergency credentials too frequently find the state universities do not offer courses at times and locations to enable them to become fully certified. California appears to be restrictive in accepting out-of-state credentials. In-service days have been reduced by the Legislature, and yet almost half of the special education staff is not fully qualified. There have been incentives for teachers in general education, but disincentives for teachers in special education. While the CTC has made progress, other aspects of the personnel shortage require analysis and action by the California Legislature.

Accountability for Student Progress

The respondents seemed to be quite aware of the recent Statewide Testing and Reporting (STAR) program and in many ways the majority were highly supportive of the concept that *all* students shall be tested. There was strong support for standards for all students. But there was considerable concern over the "one measure fits all" attitude, especially as it applies to the severely and profoundly disabled. On this topic, the state has implemented a major program, the people are supportive, but strongly urge the CDE and Legislature to be cognizant that there can be repercussions in the lives of children who are not prepared to experience this kind of test taking situation or for parents who do not understand the meaning of poor results.

While there has been a brief two-year period since the last Sunset Review Report, these four activities and the new funding and delivery provisions of the Education Code have promise of improving much of the earlier unmet needs. Each is a major difference in the way the special education program is managed. This report has outlined the steps taken in the last many months, but the results have to be fully implemented before the respondents can evaluate their effectiveness. The reader should keep this in mind as the sections on recommendations and comments are read.

1999 UNMET NEEDS AND RECOMMENDATIONS

To help the California Department of Education (CDE) prepare this report and obtain a perspective of organizations and individuals connected to special education, opinions were solicited about the state of special education services. Respondents were asked what services they felt were effective, asked to identify unmet needs, and make recommendations to improve special education services. 227 individuals and organizations responded to the inquiry. These respondents offered more than 1,000 thoughts and ideas about special education. Any listing would be lengthy and arduous to summarize, especially those comments that were uniquely related to an individual experience. In a number of topic areas it was difficult to find a trend among all the comments or to make a recommendation in one direction. See Appendix A for a listing of typical comments.

This was not a scientific survey and due to the methodology of the inquiry and the number of responses, **the results are not considered necessarily representative** of the thinking of all pupils, parents, advocates, providers of special education services and other interested parties. However, the information contained in this section does reflect a consensus from the respondents about the state of affairs in special education today.

There were several topics for which there were frequent and unambiguous comments. The largest percentage of comments were positive concerning the successes and effectiveness of special education in California. This section will outline those unmet needs and provide the Legislature with recommendations. The contents and recommendations are not direct quotes, but they are in the words of the respondents. The statements are synthesized from many similar comments to convey the essence of the unmet need or recommendation. These topics are presented in priority order based on the frequency of mention. This includes only those areas that received a large volume of attention and is not a complete listing of the topics. There were many other comments less frequently mentioned which are covered in Appendix "A"

Need: Reauthorization

The Legislature must determine whether the categorical program of special education is to be repealed as of June 30, 2000, or Part 30 of the Education Code is *reauthorized*. In view of the federal mandates, should not special education be removed from the list of categorical programs in Part 34 to continuously undergo sunset consideration?

Recommendation:

1. The California Legislature should reauthorize Part 30 of the Education Code to assure the students and parents that a free, appropriate, public education will be provided all individuals with a disability by California's public schools.

2. The California Legislature should remove the special education program from the sunset provisions of Part 34 as it will continue to be a program mandated by federal law.

Unmet Need: Qualified staff

There is an egregious *shortage of qualified* special education personnel throughout California. This includes special education teachers and specialists, general education teachers who understand the learning needs of students with a disability, instructional assistants and aides, substitutes, nurses, school counselors, psychologists, principals knowledgeable of the needs of all students, administrators, and state consultants. The shortage is driving caseloads and class sizes beyond reason and is a major reason for special education teachers to seek general classroom assignments where 20 to 1 is a more reasonable teaching load.

Recommendations:

3. The Legislature should fund and then require the California State University system to employ instructors and schedule special education course offerings sufficient to meet the preparation needs of teacher candidates in the communities which they serve. There must be opportunities for the continuing education of teachers who are now teaching with a waiver or emergency credential.
4. The Legislature should require the Universities and the Commission on Teacher Credentialing (CTC) to establish and enforce statewide competency standards for special education teachers and personnel.
5. The CTC should do more to encourage teachers with out-of-state credentials to become California certified.
6. The CTC should require special education student teaching for all candidates for special education credentials.
7. The CTC and LEAs should limit the use of waivers, emergency credentials, and long term substitutes.
8. Universities and the CTC should require all (both general and special) school personnel have knowledge of the diversity in learning styles and student behaviors as part of their professional preparation.
9. The Legislature should require all special education staff to attend a certain number of in-service hours annually, restore the number of in-service days for LEA and county staff or pay the district or staff for in-service time, tuition, substitutes, and expenses.
10. The Legislature should consider differential pay for special education certificated staff who must work additional hours to meet mandates, offer scholarships and loans for attaining credentials and employment, and establish major incentives for recruiting personnel into the field of special education in California schools.
11. LEAs need to provide: Beginning Teacher Support and Assessment (BTSA) programs, mentors, and teachers the opportunity to observe quality teaching.

There was faint mention of the new CTC credentials, which were positive, but it indicates the respondents are not familiar with the recent efforts of the CTC to establish new program and credential requirements.

Quote: "Research is coming faster than in-service can train."

Unmet Need: Paperwork

Paperwork, timelines, notice, meetings, collaboration, data collection, and accountability are significantly reducing the amount of the teacher's time spent instructing students. The burden is especially difficult with the frequent changes in laws and regulations and when the teacher must also be a lawyer, parent educator, and data manager.

Recommendations:

12. The Legislature should revise the Education Code to put emphasis on quality learning and student performance rather than compliance with paperwork.
13. Teachers should be required to do paperwork outside of the instructional hours and be paid for the additional hours it takes to do paperwork.
14. Provide teachers with two aides; one to assist students and one to monitor progress, keep records, write reports, schedule meetings, send notices, etc.
15. Provide schools with adequate secretarial support for special education staff.
16. The state should develop standard uniform computer forms and reports, and LEAs should provide staff convenient access to modern computers and networks for form maintenance and record management. Transfer of records should be done electronically and immediately in order to meet mandated timelines.
17. Cut the paperwork burden by significantly reducing caseloads and class sizes.

Unmet Need: Accountability

Accountability is of increasing concern and mandated by both federal and state laws. The current monitoring is ineffective in some districts and actions slow in resolving noncompliance. There is a need for qualified and trained reviewers and a process for equitable findings and consistent technical assistance across districts. Accountability must focus on student outcomes and not create a paperwork burden on teachers.

Recommendations:

18. The Legislature should amend the Education Code and provide state and local resources to implement the *Special Education Quality Assurance Process* as a major step in bringing accountability to special education programs.
19. Effective accountability occurs through a partnership with each level of the administration of special education. Adequate resources, heretofore not provided, must

be allocated by the Legislature to the state, county, SELPA, and districts to provide leadership, manage data, monitor student outcomes, and facilitate corrective actions needed to support high student goals, and transition to the workforce and community living.

20. The Legislature should determine the consequences for school boards, administrators, and teachers who choose not to implement the laws of Congress and the California Legislature and enact laws to clearly specify the consequences of such noncompliance.
21. The California Legislature should provide adequate resources to implement the programs mandated by law.

Unmet Need: Behavior

The new federal emphasis on student *behaviors*, in all its manifestations, from assessments, IEP content, inclusion, intervention plans, Hughes bill requirements, suspension-expulsion rights, interagency collaboration, Chapter 26.5, early intervention in preschool and primary grades, drop-out reduction, graduation, and successful transition into the community, all require resources that are scarce if not nonexistent in most schools.

Recommendations:

22. Schools need to intervene earlier in preschool and primary grades to assist students and families to manage behavior successfully. Class size reduction should assure that no student experiences early school failure that often leads to poor self esteem and unacceptable school behaviors.
23. Schools should be for all students. The Legislature should reduce the categorical distinctions between the gifted, normal, at-risk, and disabled, and make resources available to all in need, especially those at risk of failure who are considered in many LEAs to be currently "ineligible" for special services, accommodations, or are blamed for their own plight.
24. Schools should consider increasing the numbers of school counselors and psychologists to assist general education teachers manage classroom behaviors, develop plans required by Section 504 of the Vocational Rehabilitation Act, implement accommodations required by the Americans with Disabilities Act, create alternative education programs for students with persistent behavior patterns, assist special education teachers assess behavior and write intervention plans, train one-on-one aides, manage autism spectrum disorders, contribute to crisis intervention resources at the school, conduct staff development activities in behavior management and alternative dispute resolution, participate with teachers in Student Attendance Review Board (SARB) activities, and contribute to the successful transition to the community of graduates whose behaviors may be different from the norm, such as epilepsy, cerebral palsy, etc. Very few schools have staff with these skills and experience, but ADA and the IDEA amendments will

require schools to seek much more expertise in behavior management in all situations and not just special education.

25. Establish resources to deliver needed services in the neighborhood school (the mandated least restrictive environment) from districts, counties, and from federal, state, county, and local agencies who serve students in rural and small towns, rather than incur the lost time and expense of transportation to urban centers or residential placements.
26. Increase the state budget for county mental health services to school students with disabilities or behavior problems.

Unmet Need: Funding

Fiscal resources are inadequate. Enrollments and COLAs are increasing faster than funding is increased. Funding does not account for new disabilities and services for more severe disabilities, increasing referrals, and assistive technologies. AB 602 equalization has helped some districts, but the total authorization is still based on a deficated base year allocation. Mandated services are a drain on districts' general fund.

Recommendations:

The comments were nearly unanimous that special education was underfunded. However, the comments were almost entirely to the effects of underfunding on the instruction and services being or not being provided rather than on the funding mechanism itself. There was little consensus for recommendations, and therefore comments are provided to illustrate the need for additional funding. It seems the respondents were aware of AB 602, but as yet uninformed about its effects and operation. While equalization funds were certainly a help, the total authorization is still inadequate. Some believed the funding does not resolve demographic local needs nor help rural districts cope with many services for few students. Some commented that AB 602 put pressure on Nonpublic School placements. The following comments received the most frequent mention; most likely based on perceptions not considering AB 602/598.

- Inadequate funding has resulted in heavy caseloads and larger class sizes, sometimes exceeding general education class sizes, which in turn is causing teachers to seek other assignments than special education.
- Inadequate funding over the years has resulted in out-dated equipment, insufficient textbooks, materials and supplies. Teachers are forced to buy their own materials.
- Enrollment increases faster than funding.
- Districts are forced to underserve.
- All high schools should be fully funded for vocational education, Career to Work, WorkAbility, and Transition Partnerships. WorkAbility I is successfully employing 72% of its participants, but only 35% of the eligible students have access to WorkAbility I grants in California.
- Low incidence disabilities are underfunded.

- Pupil personnel services are underfunded.
- There is a serious lack of instructional/classroom space.
- Transportation is under funded.
- New programs, new technologies, assistive technologies, and multiple designated instruction and services (DIS) are expensive and not sufficiently funded.
- Community Advisory Committees (CACs) need independent funding and parent representation on state and local committees and workgroups need funding.
- Mandates, legal costs, and court decisions are a fiscal burden that take from all other programs.
- Funding has not kept pace with the cost of living increases (COLAs). Why a 3 percent COLA for general education and a 2.18 percent COLA for special education?
- Funding is not fairly distributed.
- The federal government needs to fund the level authorized.

Note: one respondent said funding was "abundant".

Final note to this section:

There are many, many more recommendations that have relevance to the improvement of special education, but they did not receive a "second" or "third" mention or were not specific to the major areas above. There were even more comments on unmet needs but without suggestions for resolution. Please refer to Appendix "A" for a listing of these comments.

ACKNOWLEDGEMENTS

The development of the *1999 Sunset Review Report on Special Education Programs, A Report to the California Legislature*, represents the effort on the part of many individuals and organizations. Parents, teachers, school staff, administrators, agencies, advocates and other professionals contributed the material for the report while others gave of their time in reviewing and editing this document. The Department of Education is appreciative of all those who so generously gave of their time that aided in the development of this report

APPENDICES

APPENDIX A: 1999 RESPONSES AND COMMENTS

There were many comments from many individuals. Those topics that occurred very frequently and had recommendations are highlighted in the body of the report under Unmet Needs and Recommendations. In this appendix, comments are grouped by topics as they seemed to naturally cluster. They are listed in the manner they were presented; that is, a need statement is stated as a need and may be without any recommendation, and a recommendation can stand alone. Similar comments are grouped together and not necessarily in the order of frequency, however the comments of most frequent mention tend to be the first comments listed for each major heading.

Teachers were the major contributors comprising 34 percent of the respondents. District and SELPA staff responded almost as often providing 26 percent of the comments. School level staff were third at 15 percent, followed closely by parents contributing 12 percent of the responses. Advocates, agencies, IHEs, and organizations together comprised less than ten percent.

There was a high proportion of comments with a simple comment that they believed special education was effective in their district. Therefore the comments in this appendix tend to under represent the positive perceptions of special education by both school personnel and parents. The good things seldom need changing, and the comments offered are really directed toward those things that can improve special education in California

It can readily be seen from reading the actual letters that there are major differences that people experience between schools in California. From this survey, there is no doubt there are many school faculty dedicated to the finest education for *all students*. Unfortunately, there were reported schools that are underserving, inadequately serving, or unable to serve many students, whether from lack of resources, qualified personnel, or the complexity of the requirements and paperwork. Most everyone agrees that schools and teachers should be accountable, but there is major disagreement over one measure for all and the effect the accountability laws and protection of student rights are having in reducing time for quality teaching. Paperwork, meetings, lack of support staff, and grossly over-sized classes and caseloads add dramatically to the burden of accountability falling directly on the teaching staff.

The comments in this list typically occurred several times. There are hundreds more of individual thoughts.

Adequacy of the Education Code

- The majority of the comments were positive about the adequacy of the provisions of the California Education Code to provide for special education instruction and services, except for funding.
- Many felt the code was too legalistic and should be rewritten so that teachers and parents can understand it.
- The Education Code should be revised so that it parallels IDEA and contains all the information for each topic under one section.
- The Education Code should be *generic* with respect to disabilities and should not create differences among them.
- The code should emphasize quality of instruction and pupil outcomes rather than item-by-item compliance.
- Many of the unmet needs cannot be met with legislation.
- The code does support delivery, but some schools don't comply.
- The Education Code is perceived by most people as a unmanageable complex document that has almost nothing to do with what happens in classrooms.
- California needs more special education charter schools.

Adequacy of the Delivery System

- Most respondents believed the delivery system to be functional and that schools are doing a good job of educating students. There were very few negative comments about services to the severely disabled.
- Paperwork leaves too little time for teaching.
- Caseloads and class sizes are much too large.
- There are not enough qualified teachers and staff to deliver adequate instruction and services.
- RSP teachers are changed by title to DIS teachers to get around the caseload limit, but the service delivery is the same.
- LEAs need more flexibility in program delivery.
- Need greater support for school based coordinated programs (SBCP).
- More guidelines and classroom support is needed for inclusive education.
- More secondary programs for school to career, vocational training, and transition services are needed.
- More programs are needed in neighborhood schools.
- Rural and small schools do not have the fiscal and personnel resources to offer the full range of program options.

Eligibility for Services

- Resources should be available for at-risk students.; the line of distinction is often false or discriminatory.
- The discrepancy model for SLD sets students up to fail. Early intervention should be available as soon as there is a student need.
- Assessment skills are not keeping up with research.
- Too many IEP teams lack diagnostic knowledge; they are guessing.
- New disabilities / research are not understood.
- More expertise in *behavior* diagnostics is needed.
- Eligibility standards need tightening up.
- The Education Code needs new eligibility criteria for specific learning disabilities as no standardized tests currently exist.
- Exit standards are needed.
- The gifted and low IQ students are being ignored.
- Child find activities should be more accountable.

The IEP Content and Process

- IEPs are carefully done and meaningful for teachers and parents.
- There are too many inadequate IEPs; poor goals; few objectives.
- The state should develop and mandate a computerized IEP form; and teachers must have immediate access to modern computers.
- IEPs are a good source for student progress accountability.
- The variation and individualized nature of IEPs make their use for accountability impossible.
- IEPs need better goals and measurable objectives so parents can monitor student progress.
- Assess "lack of teaching" before writing an IEP.
- IEPs take excessive staff time and paperwork.
- IEP meetings are too legalistic, teachers are anxious about saying something wrong.
- The IEP is an open door to everything.
- Some parents take advantage of the IEP process to make unreasonable demands.
- Once a student has a IEP, school staff no longer care.
- The IEP process does not help non-English speaking parents to get adequate services.
- IEP meetings are being subordinated to disputes about interpretations of the Education Code.

Curriculum

- Programs need to be more individualized.
- Uniform academic standards are needed.

- Uniform standards for severely disabled are ludicrous.
- More inclusive programs are needed statewide.
- Many high schools lack vocational education opportunities.
- More high schools need to provide WorkAbility and transition partnerships.
- Standards for promotion and graduation are needed.
- There is an attitude that everyone is going to college: expectancies for some students are too high.
- Need differentiated special day classes to accommodate appropriate curriculum. Classes should have students with similar age and needs.
- LEAs need more alternatives to work with behavior problems, drug dependency, and prenatally exposed students.
- New technologies are expensive and therefore lacking in most districts.
- New disabilities are not being provided for: state or locally.
- Many teachers have never heard of dyslexia.
- The state should provide methodology advisories.
- The gifted and the developmentally delayed are being ignored.
- There are no resources for core curriculum textbooks.
- Publishers should be required to supply textbook adoptions for students with disabilities.
- State special schools need to deliver the core curriculum.
- Remove "vision therapy" but keep vision services.
- "School districts have a monopoly on old methods."
- Tying shoes, putting on a sweater right side out, printing their name, and counting to ten are not items in a fourth grade academic standard, yet this is the level of some severely disabled fourth graders.

Accountability

- Many schools and parents believe that accountability through the IEP, STAR testing and parent conferences is excellent.
- Caseloads and class sizes are too large for accountability to work.
- Standards for *all* students are needed.
- Diversity and individuality of the disabled make legal accountability measures impossible.
- Accountability often sets unrealistic expectations for IWENs.
- Retention doesn't work; don't be so inflexible.
- Some schools tend to blame students rather than the teaching.
- Teachers need to be held accountable and districts need the ability to remove incompetent teachers.
- Principals are secretive and play God.
- There are no consequences for noncompliance.
- Accountability, without the resources, is driving too many teachers from the profession.

- Data collection is overwhelming school staff.
- The CCR and PQR need the findings to be useful to teachers.
- School site plans really determine a school's compliance.
- General education accountability is increasing the referrals to special education.
- Schools are not providing IDEA report cards.
- Parents need more frequent reporting and progress conferences.
- Parents need a "hot line" for fast state (or County/SELPA) review of a student's needs when schools turn students down.
- Accountability standards in IDEA and AB 602 need to be codified in law.
- The public feels schools are failing after watching the blizzard of television advertisements for phonics programs; there are lots of good things going on in California class rooms everyday, but no one knows about it.
- There are staff who view accommodations as cheating.

Due Process

- We must lessen the litigious nature of special education.
- There is inequity between student's rights; at-risk students have none Regular students should have "rights" too.
- Principals need to accept all students.
- Parents need and want more parent education opportunities.
- Review and revise suspension and expulsion laws and guidelines so they are understandable and are simple to follow.
- Make complaints focus on problem solving.
- SDE should reinstate policy statements to clarify legal procedures.
- The hearing process needs a review; a tribunal should replace inadequately trained independent hearing officers.
- Fair hearings take way too long, sometimes more than a year.
- When they are correct, LEAs need support; not compromise.
- Affluent parents take undue advantage of due process.
- Teachers are not qualified to be lawyers.
- Teachers have rights and need protection from abusive parents.
- The federal government should not require services beyond available resources.
- Greater interagency collaboration is needed.
- The state should oversee mediation.
- Mediators should not be parents of special education students.
- Education is not free when parents have to pay for advocacy against school district lawyers.
- Parents need access to competent private resources.
- Eliminate attorney fees.
- Parent's threats should not be placing conduct disorder students in classes.

Fiscal Resources

- Only four tenths of one percent of the respondents said special education funding was adequate.
- AB 602 helps but continues a deficit model.
- AB 602 promises equalization that will help, if realized.
- Why a 3% COLA for general education and 2.18% COLA for special education?
- There is too wide a variance between poor and rich LEAs.
- AB 602 has placed an added pressure on NPS expenditures (read placements and contract negotiations).
- AB 602 will make everyone "included" and special education non-existent.
- Every excessive special education cost deprives all students of an educational opportunity.
- There needs to be cost/benefit standards.
- Some DIS services (like one-on-one aides) are extremely high cost and severely impact resources.
- Federal, state, and court mandates should fully fund new services such as enrollment increases, new disabilities with new services required, new technologies, adequate space and equipment, and resources to monitor accountability.
- Section 504 and ADA service demands are increasing without any recognition of the resources necessary to provide them.
- The state needs a new model to fund foster home and LCI placements.
- Community Advisory Committees (CACs) need to be funded and parents need to be paid for expenses of serving on committees and workgroups.
- Other state agencies such as mental health, rehabilitation, and social services need adequate state funding to provide their services to school students.
- Low incidence funding is inadequate.
- Laws should prohibit encroachment.

Other Resources

- Many districts are not providing core curriculum textbooks for special education teachers and students.
- Books, supplies, and equipment are badly needed.
- When my apple dies, there will be nothing!
- Transportation to everything is very expensive.
- Transportation costs continue to be underfunded.
- Pupil personnel services are way underfunded.
- Funding for early intervention services would eventually save the state many dollars.
- Resources for recruitment, staff development, and in-service are needed.

- Schools need secretarial help to manage the paperwork problem.
- High transiency of some districts creates problems with fixed numbers, paperwork, and accountability.

Certification

- Certificated special education teachers should be given additional pay.
- The legislature should fund and mandate state universities to allocate resources to assure teacher candidates that course and credential programs are available at reasonable places and times.
- IHEs need uniform competency standards for special education credentials.
- IHEs need a closer link to the reality of today's schools and students.
- IHEs should provide on-line courses.
- CTC needs to review their perceived practice of discouraging teacher candidates.
- CTC needs to accept out-of-state credentials.
- Special education credential candidates should be required to have special education student teaching.
- There needs to be a undergraduate major for special education.
- The new CTC credentials may help.
- We can't lower teacher qualifications any further.
- CTC should severely limit waivers and emergencies.
- All credentials should require more content in differing learning styles, behavior management, and special needs students.

In-service

- The state should reinstate the in-service days recently taken away.
- Districts should be funded for more in-service days.
- BTSA is a big help but is not often offered new special education teachers.
- Mentoring is one way to assist and keep new teachers.
- New teachers need opportunity to visit good teachers' classrooms.
- Annual in-service hours should be made a requirement.
- In-service is needed in the area of student behaviors.
- Pay, tuition, and loans should be available to teachers and aides to acquire in-service.
- Funds are needed for qualified substitutes.
- General teachers and special teachers need in-service on at-risk students, collaboration, and teamwork.

Other Staff Resources

- Special education needs incentives to counteract 20 to 1 incentives.

- The state should follow NEA/CTA guidelines on class size.
- Principals and administrators need more training in special education.
- The difference between primary and intermediate grades is great; The school should have two special educators; one for primary and one for the intermediate grades.
- Teachers need two aides; one to assist students and one to do the paperwork.
- Instructional aides need to be provided training.
- More school counselors are needed to assist with behaviors, parents and paperwork.
- Too often knowledgeable and dedicated teachers are ostracized by their peers because they are in the minority.
- Teachers need qualified trainers and or presenters for in-service.
- Special education teachers should be allowed to transfer all their years of service so they can change districts rather than leave teaching when they experience increasingly unacceptable teaching conditions.
- Paperwork is a major cause for teachers to quit special education.

Miscellaneous

- As a parent, my district is great. But I'm horrified to contemplate changing districts from what other parents tell me.
- The state should require state and county agencies to provide services in rural and small schools.
- Reduce general class sizes and get rid of special education.
- Special education would benefit from more flexibility around the 20 to 1 rules.
- The state and committees should use more teachers to plan the laws.
- CDE can't keep up with all the changes; their help is limited.
- CDE needs a state budget to hire more qualified special education consultants.
- Either fund the CDE or delegate compliance authority to the County or SELPA.
- Stop CDE from charging for materials, guidelines, and meetings.

APPENDIX B: ENROLLMENT DATA

This section of the report is intended to give the reader an opportunity to review unique arrays of special education census figures. The following key will aid in defining the disability category and placement setting codes used in the charts that follow:

<u>Code</u>	<u>Disability Category</u>
MR	Mental Retardation*
HH	Hard of Hearing
DEAF	Deaf
SLI	Speech and Language Impaired
VI	Visually Impaired
SED	Seriously Emotionally Disturbed**
OI	Orthopedically Impaired
OHI	Other Health Impaired
SLD	Specific Learning Disability
DB	Deaf-Blind
MH	Multi-Handicapped
AUT	Autism
TBI	Traumatic Brain Injury
NCAT	Non-Categorical

* More recently referred to as Developmental Disabilities

** May also include Behavior Disorder

<u>Code</u>	<u>Placement Setting</u>
DIS	Designated Instruction and Services
RSP	Resource Specialist Program
SDC	Special Day Class
NPS	Nonpublic School
SOP	State-operated Program

Table 6 displays the number and percentage of special education students by placement for December of each year beginning in 1988 through 1997. During the past ten years, the percentage of students receiving designated instruction and services (DIS) has decreased from 28% to 24% of the total enrollment. Similarly, placements in special day classes (SDC) have also decreased, on a percentage basis, from 31% to 30%. As compared to other placements, on a percentage basis, growth has occurred, during this period, in resource specialist programs (RSP) and nonpublic schools (NPS). While all placements have increased numerically, the most significant growth has occurred in RSP and NPS. NPS placements, from 1988 to 1997, have increased by 107% (6036 students).

Table 6

Year	DIS	RSP	SDC	NPD	SOP	TOTAL
1988	123287	171703	132121	5643	n/a	432754
Percent	28.49%	39.68%	30.53%	1.30%		100.00%
1989	126688	179662	137062	6198	n/a	449610
Percent	28.18%	39.96%	30.48%	1.38%		100.00%
1990	128186	191472	143864	6991	n/a	470513
Percent	27.24%	40.69%	30.58%	1.49%		100.00%
1991	132111	204402	150929	7810	n/a	495252
Percent	26.68%	41.27%	30.48%	1.58%		100.01%
1992	135362	215338	155870	8562	4299	519431
Percent	26.06%	41.46%	30.01%	1.65%	0.83%	100.01%
1993	138129	226459	160972	9055	4458	539073
Percent	25.62%	42.01%	29.86%	1.68%	0.83%	100.00%
1994	136397	234683	165108	9674	4431	550293
Percent	24.79%	42.65%	30.00%	1.76%	0.81%	100.01%
1995	140420	244513	171954	10514	3433	570834
Percent	24.60%	42.83%	30.12%	1.84%	0.60%	99.99%
1996	142274	254511	178246	10715	3533	589279
Percent	24.14%	43.19%	30.25%	1.84%	0.60%	100.00%
1997	145573	264906	184579	11679	3300	610037
Percent	23.86%	43.42%	30.26%	1.91%	0.54%	99.99%

SOURCE: California Special Education Management Information System

Table 14 displays, from December 1988 to December 1997, the number of special education students by age group. Due to the growth in infant and preschool programs, there are a greater percentage of infants and preschool children being served in 1997, than in 1988. From December 1991, enrollment numbers suggest the most rapid rate of growth have occurred for students three to five years of age. This is large part to the expansion of services to eligible preschool children. In December 1991, 43,338 preschool children were enrolled in special education. By December 1997, this number had increased to 57,511 students. Except for the 0-2 and twenty-two age groups, all other age groups experienced an actual growth in special education students.

Table 14

Year	0-2	3-4	5	6-10	11-13	14-17	18	19-21	22	TOT
1996	4966	32720	23002	225101	145949	134886	14101	8236	318	589
Percent	0.84%	5.55%	3.90%	38.20%	24.77%	22.89%	2.39%	1.40%	0.05%	99.9
1997	4917	33576	23935	229470	15100	143392	15136	8311	300	610
Percent	0.81%	5.50%	3.92%	37.62%	24.75%	23.51%	2.48%	1.36%	0.05%	100.1

SOURCE: California Special Education Management Information System

Enrollments

Table 1 shows the enrollment growth over ten years. In December 1997, the public school enrollment for kindergarten through grade twelve in California was 5,727,303 students. However, percentage growth in the number of special education students, 12%, was one and a half more than the growth of public school enrollment of 8%.

Table 1

		Special Education Enrollment					
	General Education Enrollment		Percent of General Education		Percent of General Education		Percent of General Education
Year	K-12	Ages 0-22		Ages 6-21		Ages 5-17	
1986	4377989	392040	8.95%	365013	8.34%	362533	8.28%
1987	4488398	412089	9.18%	378704	8.44%	377098	8.40%
1988	4618120	432754	9.37%	394505	8.54%	392437	8.50%
1989	4771978	449610	9.42%	407539	8.54%	407024	8.53%
1990	4950474	470513	9.50%	425711	8.60%	425558	8.60%
1991	5107145	495252	9.70%	446378	8.74%	447255	8.76%
1992	5195777	519431	10.00%	466058	8.97%	466174	8.97%
1993	5267277	539073	10.23%	481746	9.15%	482141	9.15%
1994	5341025	550293	10.30%	492028	9.21%	493192	9.23%
1995	5467224	570834	10.44%	510875	9.34%	511795	9.36%
1996	5612965	589279	10.50%	528273	9.41%	528938	9.42%
1997	5727303	610037	10.65%	547309	9.56%	547797	9.56%

SOURCES: California Special Education Management Information System
California Basic Education Data System

Special Education Enrollment By Age By Disability

Table 2 displays the number of students enrolled in special education by age, by category of disability as of December 1, 1997. Special schools census data can be found in Table 3.

Table 2

Age	MR	HH	Deaf	SLI	VI	SED	OI	OHI	SLD	DB	MH	AUT	TBI	NCAT	Total
0	159	17	14	23	55	1	110	143	11	0	17	3	1	58	612
1	252	65	44	129	127	1	327	309	13	3	70	3	3	183	1529
2	359	91	108	663	191	1	408	350	99	12	122	24	4	344	2776
3	1178	119	183	7437	169	20	697	449	1046	7	264	515	19	0	12103
4	1512	158	226	15041	189	37	833	456	1824	12	344	829	12	0	21473
5	1759	236	225	16526	215	86	858	477	2221	5	341	969	17	0	23935
6	1870	295	267	20093	235	235	863	777	3898	7	358	865	42	0	29805
7	2106	388	287	23379	321	464	957	1177	10261	14	362	779	49	0	40544
8	2293	506	263	21364	313	749	912	1336	20068	5	363	601	62	0	48835
9	2343	518	245	17015	298	1029	930	1459	29650	5	387	500	61	0	54440
10	2319	542	274	12011	334	1246	895	1438	35931	10	397	387	62	0	55846
11	2323	524	310	7811	291	1541	850	1235	38117	12	395	351	59	0	53819
12	2336	479	280	5283	294	1692	802	1180	37473	8	396	288	74	0	50585
13	2333	422	282	3633	292	2007	768	1132	35060	9	360	232	66	0	46596
14	2271	383	303	2325	289	2154	673	1035	32046	11	356	202	69	0	42117
15	2157	388	276	1786	295	2380	710	990	28963	10	343	202	105	0	38605
16	2059	382	285	1381	257	2422	641	882	24941	9	362	160	78	0	33859
17	1950	309	310	1116	269	2220	553	652	20844	11	328	152	97	0	28811
18	1622	148	182	516	151	1126	399	279	10261	7	283	118	44	0	15136
19	1167	41	60	119	67	342	249	99	1787	5	245	100	25	0	4306
20	1080	27	41	38	51	152	211	39	434	11	181	81	13	0	2359
21	889	19	14	10	38	81	182	29	147	8	145	77	7	0	1646
22	170	2	5	2	5	10	16	8	41	2	26	11	2	0	300
Total	36507	6059	4484	157701	4746	19996	13844	15931	335136	183	6445	7449	971	585	610037

SOURCE: California Special Education Management Information System

State Special Schools Data

Table 3 provides census information for each school by gender and ethnicity as of December 1, 1997. The enrollment at these schools has remained relatively stable since December 1991. At that time, the census was 1,114 students.

Table 3

School	Male	Female	Total	Native American	Asian	Pacific Islander	Filipino	Hispanic	African American	White
Blind - Fremont	58	50	108	2	4	0	0	20	21	61
Deaf - Fremont	270	198	468	14	40	2	18	104	46	244
Deaf - Riverside	273	238	511	5	19	6	6	218	54	203
Total	601	486	1087	21	63	8	24	342	121	508

SOURCE: California Special Education Management Information System

Placement Data

Table 4 provides December 1, 1997 enrollment data according to the placement of each special education student by age. In terms of size, more special education students are served in the RSP than any other placement option. The second and third most populated programs are SDC and DIS. Special education students between the ages of nine and fifteen are more likely to receive RSP than any other type of service. Younger children, between the ages of four through eight are most likely to receive DIS. Much like RSP, the heavy concentration of SDC is for special education students in the eight to sixteen year age ranges. Generally, NPS placements are for special education students between the ages of thirteen and seventeen.

Table 4

AGE	DIS	RSP	SDC	NPS	SOP	TOTAL
0	66	6	539	1	0	612
1	190	15	1322	2	0	1529
2	160	18	2586	12	0	2776
3	5700	910	5389	86	18	12103
4	11980	1822	7506	147	18	21473
5	14170	2711	6868	158	28	23935
6	19292	3180	7146	155	32	29805
7	22573	8997	8720	222	32	40544
8	20281	17691	10473	337	53	48835
9	15916	25356	12670	452	46	54440
10	10999	29863	14347	570	67	55846
11	6925	30541	15537	735	81	53819
12	44742	28913	15860	965	105	90585
13	3482	26377	15498	1115	124	46596
14	2334	24168	14175	1296	144	42117
15	2078	21622	13175	1516	214	38605
16	1810	18567	11610	1468	404	33859
17	1633	15698	9608	1279	593	28811
18	810	7284	5855	652	535	15136
19	252	956	2441	234	423	4306
20	102	134	1716	146	261	2359
21	51	61	1312	113	109	1646
22	27	16	226	18	13	300
TOTAL	145573	264906	184579	11679	3300	610037

SOURCE: California Special Education Management Information System

Table 5 provides December 1, 1997 enrollment data by disability category and placement setting. With the exception of state operated programs, one disability category represents most of each service caseload: SLI (86.7% of DIS); SLD (90.2% of RSP); SLD (50.1% of SDC); and SED (64.9% of NPS). Students with learning disabilities (55.4%) and students with speech and language impairments (25.9%) represent 81.3% of the special education caseload.

Table 5

Disability Category	DIS	RSP	SDC	NPS	SOP	TOTAL
MR	880	1983	32652	711	281	36
HH	1518	1090	3378	71	2	6
DEAF	193	126	3195	68	902	4
SLI	127602	14933	14809	185	172	157
VI	836	601	3144	57	108	4
SED	696	2438	9152	7248	462	19
OI	1883	1604	10280	76	1	13
OHI	4511	5780	5245	368	27	15
SLD	6670	235088	90088	2049	1241	335
DB	7	19	149	8	0	
MH	202	395	5506	245	97	6
AUT	440	517	5935	557	0	7
TBI	80	325	523	36	7	
NCAT	55	7	523	0	0	
TOTAL	145573	264906	184579	11679	3300	610

SOURCE: California Special Education Management Information System

Table 6 displays the number and percentage of special education students by placement for December of each year beginning in 1986 through 1995. During the past ten years, the percentage of students receiving designated instruction and services (DIS) has decreased from 28% to 24% of the total enrollment. Similarly, placements in special day classes (SDC) have also decreased, on a percentage basis, from 31% to 30%. As compared to other placements, on a percentage basis, growth has occurred, during this period, in resource specialist programs (RSP) and nonpublic schools (NPS). While all placements have increased numerically, the most significant growth has occurred in RSP and NPS. NPS placements, from 1986 to 1995, have increased by 137% (6069 students).

Table 7 exhibits the number (by age) of students receiving designated instruction and services of December 1, 1997. Student with speech and language impairments represent nearly 88% of the designated instruction and services caseload. The largest concentration of designated instruction and services are provided to special education students four through ten years of age.

Table 7

AGE	MR	HH	Deaf	SLI	VI	SED	OI	OHI	SLD	DB	MH	AUT	TBI
0	7	1	1	14	12	0	8	17	1	0	0	0	0
1	7	7	3	33	27	0	25	44	1	0	6	0	1
2	6	9	4	66	22	0	16	15	3	1	2	1	1
3	86	16	9	5199	25	6	63	72	143	0	15	63	3
4	82	31	10	11267	38	5	76	110	286	0	17	58	0
5	80	41	9	13325	47	6	115	127	331	0	17	70	2
6	64	72	9	18141	45	19	156	306	386	0	13	75	6
7	68	119	8	21226	73	13	143	479	373	0	14	53	4
8	51	148	19	18859	63	32	142	476	436	1	14	32	8
9	43	136	15	14495	60	37	162	491	435	0	12	26	4
10	44	147	12	9738	52	32	135	399	396	1	16	22	5
11	52	150	8	5758	64	40	112	286	436	1	9	5	4
12	43	136	9	3577	46	43	119	284	466	0	9	8	2
13	36	110	14	2352	50	51	131	287	432	0	7	6	6
14	34	90	13	1280	46	55	107	283	411	0	6	3	6
15	37	100	11	900	48	70	111	277	511	0	5	2	6
16	31	96	13	641	45	84	98	249	528	1	9	6	9
17	35	72	13	501	50	96	84	203	564	1	7	1	6
18	28	22	9	180	16	71	39	74	359	0	4	3	5
19	16	6	2	37	2	23	18	18	121	0	6	2	1
20	12	6	2	9	5	3	11	13	32	0	8	1	0
21	13	2	0	3	0	7	11	1	11	0	1	1	1
22	5	1	0	1	0	3	1	0	8	1	5	2	0

SOURCE: California Special Education Management Information System

Table 8 exhibits the number (by age) of students receiving resource specialist program services as of December 1, 1997. Students with specific learning disabilities represent over 89% of the resource specialist program caseload. The largest concentration of designated instruction and services are provided to special education students eight through seventeen years of age.

Table 8

Age	MR	HH	Deaf	SLI	VI	SED	OI	OHI	SLD	DB	MH	AUT	TBI	NCAT	Total
0	0	0	0	0	0	0	4	1	1	0	0	0	0	0	6
1	1	0	0	1	1	0	9	1	0	0	1	0	0	1	15
2	0	0	0	4	1	0	6	0	0	0	1	0	0	6	18
3	18	1	0	718	4	0	32	19	103	0	1	12	2	0	910
4	37	2	0	1486	5	3	23	23	226	0	1	15	1	0	1822
5	84	9	0	1798	9	4	66	84	605	0	4	45	3	0	2711
6	148	22	2	731	13	23	106	162	1851	0	16	96	10	0	3180
7	192	53	4	1089	42	43	130	346	6993	3	19	70	13	0	8997
8	197	90	7	1414	47	58	130	492	15115	0	44	74	23	0	17691
9	201	96	3	1507	56	112	120	577	22573	0	41	48	22	0	25356
10	179	111	9	1382	58	114	145	637	27137	0	38	34	19	0	29863
11	163	120	3	1193	53	173	137	593	28015	0	40	28	23	0	30541
12	145	120	11	1006	47	196	111	554	26620	2	46	27	28	0	28913
13	138	91	14	700	44	276	113	542	24441	3	31	17	23	0	26433
14	119	83	17	543	48	306	106	470	22427	5	38	15	21	0	24198
15	107	85	10	462	54	371	109	454	19941	5	26	13	50	0	21687
16	94	99	20	415	36	360	115	398	16968	0	13	13	25	0	18556
17	88	67	19	315	61	150	81	297	14338	0	21	9	42	0	15488
18	54	38	4	151	18	26	46	108	6689	1	12	1	12	0	7160
19	14	3	2	16	3	2	9	19	856	0	2	0	6	0	932
20	2	0	1	1	1	1	3	2	120	0	0	0	2	0	133
21	2	0	0	1	0	0	3	1	53	0	0	0	0	0	60
22	0	0	0	0	0	0	0	0	16	0	0	0	0	0	16
Total	1983	19	126	14933	601	2438	1604	5780	235088	19	395	517	325	7	263835

SOURCE: California Special Education Management Information System

Table 9 displays the number (by age) of students placed in a special day class as of December 1, 1997. Students with specific learning disabilities (48.9%) and mental retardation (17.7%) represents the largest disability categories served in special day classes. Special education students eight through sixteen years old represent the largest age concentration in special day classes.

Table 9

Age	MR	HH	Deaf	SLI	VI	SED	OI	OHI	SLD	DB	MH	AUT	TBI	NCAT	Total
0	152	16	13	9	42	1	98	125	9	0	17	3	1	53	539
1	244	58	40	95	98	1	293	264	12	3	63	3	2	146	1322
2	353	75	103	593	164	1	386	335	96	11	119	23	3	324	2586
3	1063	96	149	1505	133	13	596	348	794	7	246	425	14	0	5389
4	1378	115	192	2259	135	23	730	314	1303	12	320	715	10	0	7506
5	1573	178	186	1374	153	59	673	260	1264	5	317	815	11	0	6868
6	1637	194	224	1211	174	152	597	300	1646	7	321	660	23	0	7146
7	1821	213	245	1057	202	327	680	338	2860	11	320	615	31	0	8720
8	2019	265	198	1079	197	472	636	346	4467	4	299	464	27	0	10473
9	2067	284	195	1004	178	595	642	367	6575	5	323	402	33	0	12670
10	2047	281	207	884	218	742	612	372	8297	9	331	311	36	0	14347
11	2071	251	248	853	168	871	597	317	9521	10	323	276	31	0	15537
12	2084	220	189	692	197	829	566	309	10200	6	307	218	43	0	15860
13	2095	218	180	578	186	973	520	273	9957	6	295	184	33	0	15498
14	2056	208	183	496	183	918	484	248	8936	6	286	159	41	0	14204
15	1947	201	174	402	177	901	423	226	8177	4	283	151	48	0	13114
16	1853	184	160	298	161	879	384	199	6984	6	312	116	35	0	11571
17	1736	168	159	255	149	764	313	122	5426	10	274	116	45	0	9537
18	1444	86	87	129	106	421	220	78	2836	6	238	88	23	0	5762
19	1065	30	27	27	52	118	195	53	542	4	213	75	15	0	2416
20	990	20	23	7	34	61	165	19	138	9	153	56	11	0	1686
21	800	16	9	1	32	28	15	25	40	8	127	56	5	0	1162
22	157	1	4	1	5	3	23	7	8	0	19	4	2	0	234
Total	32652	3378	3195	14809	3144	9152	9848	5245	90088	149	5506	5935	523	523	184147

SOURCE: California Special Education Management Information System

Table 10 displays the number (by age) of students in a nonpublic school placement as of December 1, 1997. Students with severe emotional disturbances (62%) and specific learning disabilities (17.5%) represent the largest disability categories served by nonpublic schools. Special education students thirteen through seventeen years old represent the largest age concentration in nonpublic schools.

Table 10

Age	MR	HH	Deaf	SLI	VI	SED	OI	OHI	SLD	DB	MH	AUT	TBI	NCAT	Total
0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1
1	0	0	1	0	1	0	0	0	0	0	0	0	0	0	2
2	0	7	1	0	4	0	0	0	0	0	0	0	0	0	12
3	10	6	8	15	7	1	6	10	6	0	2	15	0	0	86
4	13	10	9	29	10	6	4	9	9	0	6	41	1	0	147
5	21	8	4	29	5	17	4	6	21	0	3	39	1	0	158
6	18	7	6	10	2	41	4	9	15	0	6	34	3	0	155
7	18	3	10	7	2	81	4	14	35	0	6	41	1	0	222
8	16	3	2	12	3	187	4	22	50	0	3	31	4	0	337
9	20	2	3	9	2	283	6	24	67	0	10	24	2	0	452
10	37	3	3	7	1	355	3	30	101	0	8	20	2	0	570
11	26	3	1	7	1	453	4	39	145	1	12	42	1	0	735
12	46	3	1	8	1	619	6	33	187	0	25	35	1	0	965
13	47	3	1	3	1	753	4	29	228	0	17	25	4	0	1115
14	53	2	4	5	0	887	5	34	260	0	20	25	1	0	1296
15	53	2	4	11	4	1065	6	30	281	1	22	36	1	0	1516
16	64	3	2	9	4	1017	4	28	282	2	21	25	7	0	1468
17	60	2	3	13	2	894	4	26	227	0	19	26	3	0	1279
18	74	2	3	8	2	399	1	14	101	0	21	26	1	0	652
19	45	1	1	2	3	113	2	6	19	1	16	23	2	0	234
20	45	0	0	1	1	48	2	2	9	2	12	24	0	0	146
21	38	1	1	0	0	27	3	2	6	0	14	20	1	0	113
22	7	0	0	0	0	2	0	1	0	1	2	5	0	0	18
Total	711	71	68	185	57	7248	76	368	2049	8	245	557	36	0	11679

SOURCE: California Special Education Management Information System

Table 11 displays the number (by age) of students placed in a state-operated program as of December 1, 1997. Students with specific learning disabilities, students who are deaf, students with severe emotional disturbances and students with mental retardation represent the majority of the state-operated program caseload served by state operated schools.

Table 11

Age	MR	HH	Deaf	SLI	VI	SED	OI	OHI	SLD	DB	MH	AUT	TBI	NCAT	Total
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3	1	0	17	0	0	0	0	0	0	0	0	0	0	0	18
4	2	0	15	0	1	0	0	0	0	0	0	0	0	0	18
5	1	0	26	0	1	0	0	0	0	0	0	0	0	0	28
6	3	0	26	0	1	0	0	0	0	0	2	0	0	0	32
7	7	0	20	0	2	0	0	0	0	0	3	0	0	0	32
8	10	0	37	0	3	0	0	0	0	0	3	0	0	0	53
9	12	0	29	0	2	2	0	0	0	0	1	0	0	0	46
10	12	0	43	0	5	3	0	0	0	0	4	0	0	0	67
11	11	0	50	0	5	4	0	0	0	0	11	0	0	0	81
12	18	0	70	0	3	5	0	0	0	0	9	0	0	0	105
13	17	0	73	0	11	10	0	1	2	0	10	0	0	0	124
14	9	0	86	1	12	18	0	0	12	0	6	0	0	0	144
15	13	0	77	11	12	38	0	3	53	0	7	0	0	0	214
16	17	0	90	18	11	71	1	8	179	0	7	0	2	0	404
17	31	0	116	32	7	106	0	4	289	0	7	0	1	0	593
18	22	0	79	48	9	85	0	5	276	0	8	0	3	0	535
19	27	1	28	37	7	62	0	3	249	0	8	0	1	0	423
20	31	1	15	20	10	38	0	3	135	0	8	0	0	0	261
21	36	0	4	5	6	18	0	0	37	0	3	0	0	0	109
22	1	0	1	0	0	2	0	0	9	0	0	0	0	0	13
Total	281	2	902	172	108	462	1	27	1241	0	97	0	7	0	3300

SOURCE: California Special Education Management Information System

Table 12 displays December 1, 1997 data of the number of special education students by disability and ethnic category. Of the 5,727,303 pupils enrolled in general education in school year 1997-98, 0.9% were Native American; 3.6% were Asian; 0.4% were Pacific Islander; 1.1% were Filipino; 38.1% were Hispanic; 12.7% were African American; and 43.2% were White. These statistics, in total, suggest an over-representation of African American and White pupils in special education and an under-representation of Asian pupils. Any over-representation or under-representation varies between disability categories.

Table 12

Disability Category	Native American	Asian	Pacific Islander	Filipino	Hispanic	African American	White	Total
MR	253	2213	180	731	15743	4421	12966	36507
HH	43	452	39	148	2492	448	2437	6059
DEAF	37	342	29	130	1923	422	1601	4484
SLI	1401	7641	660	2211	55829	13322	76637	157701
VI	29	318	32	75	1652	453	2187	4746
SED	173	316	69	126	3869	5014	10429	19996
OI	78	774	47	241	5557	1301	5846	13844
OHI	119	567	48	159	5084	1926	8028	15931
SLD	3250	8270	1299	2421	135434	47952	136510	335136
DB	2	13	3	1	61	18	85	183
MH	33	334	19	89	2522	827	2621	6445
AUT	52	705	26	309	1704	1040	3613	7449
TBI	13	47	11	18	327	111	444	971
NCAT	2	30	1	10	184	70	288	585
Total	5485	22022	2463	6669	232381	77325	263692	610037

SOURCE: California Special Education Management Information System

Table 13 exhibits special education enrollment by disability category for each year, from December 1988 through December 1997. Approximately 55% of all pupils enrolled in special education are receiving services due to a specific learning disability. On a percentage basis, this figure has declined, slightly, since 1988. Also, on a percentage basis, since 1988 there have been declines, in relation to other disability groups, in the number of special education students with mental retardation and other health impairments. The most significant increase in special education, on a percentage basis, has been orthopedically impaired, visually impaired and seriously emotionally disturbed students.

Table 13

Year	MR	HH	DEAF	SLI	VI	SED	OI	OHI	SLD	DB	MH	AUT	TBI	NCAT	TOTAL
1988	27345	4145	3206	111196	3077	11285	8722	13257	242434	134	7953	n/a	n/a	n/a	432754
Percent	6.32%	0.96%	0.74%	25.69%	0.71%	2.61%	2.02%	3.06%	56.02%	0.03%	1.84%				100.00%
1989	27840	4194	3294	117147	3250	11678	9150	13274	251974	136	7673	n/a	n/a	n/a	449610
Percent	6.19%	0.93%	0.73%	26.06%	0.72%	2.60%	2.04%	2.95%	56.04%	0.03%	1.71%				100.00%
1990	28870	4311	3309	120950	3404	12515	9507	13305	266602	150	7590	n/a	n/a	n/a	470513
Percent	6.14%	0.92%	0.70%	25.71%	0.72%	2.66%	2.02%	2.83%	56.66%	0.03%	1.61%				100.00%
1991	29830	4454	3421	128440	3581	13644	10196	13755	280427	156	7348	n/a	n/a	n/a	495252
Percent	6.02%	0.90%	0.69%	25.93%	0.72%	2.75%	2.06%	2.78%	56.62%	0.03%	1.48%				99.98%
1992	32744	4669	4407	133073	3865	14778	11152	12975	291851	166	7158	1982	243	368	519431
Percent	6.30%	0.90%	0.85%	25.62%	0.74%	2.85%	2.15%	2.50%	56.19%	0.03%	1.38%	0.38%	0.05%	0.07%	100.01%
1993	32154	4939	4376	139996	3971	15808	12557	12938	301496	197	7338	2468	417	418	539073
Percent	5.96%	0.92%	0.81%	25.97%	0.74%	2.93%	2.33%	2.40%	55.93%	0.04%	1.36%	0.46%	0.08%	0.08%	100.01%
1994	33193	5286	4470	141901	4223	16520	13234	12882	307115	196	6985	3263	595	430	550293
Percent	6.03%	0.96%	0.81%	25.79%	0.77%	3.00%	2.40%	2.34%	55.81%	0.04%	1.27%	0.59%	0.11%	0.08%	100.00%
1995	34059	5690	4544	147935	4341	18151	13544	13989	316190	214	6549	4394	738	496	570834
Percent	5.97%	1.00%	0.80%	25.92%	0.76%	3.18%	2.37%	2.45%	55.39%	0.04%	1.15%	0.77%	0.13%	0.09%	100.02%
1996	35035	5925	4539	152637	4561	18751	14030	15011	325300	188	6152	5760	848	536	589279
Percent	5.95%	1.01%	0.77%	25.90%	0.77%	3.18%	2.38%	2.55%	55.20%	0.03%	1.04%	0.98%	0.14%	0.09%	99.99%
1997	36507	6059	4484	157701	4746	19996	13844	15931	335136	183	6445	7449	971	585	610037
Percent	5.98%	0.99%	0.74%	25.85%	0.78%	3.28%	2.27%	2.61%	54.94%	0.03%	1.06%	1.22%	0.16%	0.10%	100.01%

SOURCE: California Special Education Management Information System

During the 1997-98 school year (last full year of data), 33,267.93 IPSUs were funded to serve approximately 610,540 students. The California Department of Education's (CDE) Education Finance Division (EFD) data indicates 19,491.51 of these units were for students ages 3-21 with nonsevere disabilities, serving students primarily with designated instruction and services and resource specialist services. Pupils ages 3-21 with severe disabilities had 13,430.56 units who were primarily served in special classes or centers. Of the 33,267.93 total units, 345.86 were for infants. Of these 345.86 units, 309.30 were allocated for programs serving infants with severe disabilities and 36.06 units were allocated for programs serving infants with nonsevere disabilities.

The gross entitlement for special education in California for 1997-98 was \$3.1 billion and, after deductions (i.e., revenue limit, certain federal grant monies, local general fund contributions, county property tax monies), the net entitlement was \$2 billion, which will be certified at the first principal apportionment in February 2000. Only \$1.7 billion was available for allocation, creating a deficit of 13.65 per cent.

The 1997-98 statewide average rates reflecting the statutory COLA were: (1) special day class teacher, \$42,251.88; (2) resource specialist \$43,638.56; (3) designated instruction and services, \$42,953.41; and (4) instructional assistant, \$15,361.85. The statewide average support services ratio remained at .5215.

These figures were collected from the 1997-98 Annual Report that will be certified February 2000.

Public Law 105-117, Part C Federal Infant and Preschool Funding:

Since fiscal year 1993-94, funding for the preschool program has not kept up with growth. Per pupil allocations of Part B Federal Preschool funds have steadily declined since 1995:

1993-94	1994-95	1995-96	1996-97	1997-98	1998-99
\$1,871.63	\$1,709.47	\$1,764.34	\$1,646.49	\$1,615.98	\$1,602.37

State Special Schools

Special Education expenditures described in the previous sections exclude the costs of students served by the state special schools and diagnostic centers. The state special schools are funded separately with monies appropriated from the Budget Act, local reimbursements from school districts and miscellaneous funds from federal government programs such as Chapter I (now Part B) and the Federal Nutrition Fund. For fiscal year 1998-99, appropriations for the operation of the state special schools included in the Budget Act were \$26,583,000 (Proposition 98), \$22,172,000 (non-Proposition 98, general support funds); and \$1,064,000 (student transportation funds). In addition, \$5.3 million is received from federal, local and other funding sources.